Washington State
Pharmacy Laws and Rules

Washington State Department of Health

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Chapter 18.64 RCW

PHARMACISTS

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18.64.001

Pharmacy quality assurance commission—Creation—Membership—Oath—Vacancies.

There shall be a state pharmacy quality assurance commission consisting of fifteen members, to be appointed by the governor by and with the advice and consent of the senate. Ten of the members shall be designated as pharmacist members, four of the members shall be designated a public member, and one member shall be a pharmacy technician.

Each pharmacist member shall be a citizen of the United States and a resident of this state, and at the time of his or her appointment shall have been a duly registered pharmacist under the laws of this state for a period of at least five consecutive years immediately preceding his or her appointment and shall at all times during his or her incumbency continue to be a duly licensed pharmacist: PROVIDED, That subject to the availability of qualified candidates the governor shall appoint pharmacist members representative of the areas of practice and geographically representative of the state of Washington.

The public member shall be a citizen of the United States and a resident of this state. The public member shall be appointed from the public at large, but shall not be affiliated with any aspect of pharmacy.

Members of the commission shall hold office for a term of four years, and the terms shall be staggered so that the terms of office of not more than two members will expire simultaneously on the third Monday in January of each year.

No person who has been appointed to and served for two four year terms shall be eligible for appointment to the commission.

Each member shall qualify by taking the usual oath of a state officer, which shall be filed with the secretary of state, and each member shall hold office for the term of his or her appointment and until his or her successor is appointed and qualified.

In case of the resignation or disqualification of a member, or a vacancy occurring from any cause, the governor shall appoint a successor for the unexpired term.

[2013 c 19 § 3; 2011 c 336 § 493; 1984 c 153 § 1; 1981 c 338 § 17; 1973 1st ex.s. c 18 § 1; 1963 c 38 § 16; 1935 c 98 § 1; RRS § 10132. Formerly RCW 43.69.010.]

18.64.003

Commission—Meetings—Chairperson—Compensation and travel expenses.

Members of the commission shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. The commission shall elect a chairperson and a vice chairperson from among its members. Each member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

[2013 c 19 § 4; 1984 c 287 § 43; 1979 c 90 § 1; 1975-'76 2nd ex.s. c 34 § 40; 1963 c 38 § 17; 1935 c 98 § 2; RRS § 10132-1. Formerly RCW 43.69.020.]

NOTES:

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

18.64.005

Commission—Powers and duties.

The commission shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the commission, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the commission;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the commission;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of the commission. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

(10) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;

(11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;

(12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;

(13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers.

[2013 c 19 § 5; 1990 c 83 § 1; 1989 1st ex.s. c 9 § 409; 1984 c 153 § 2; 1981 c 67 § 21; 1979 c 90 § 2; 1973 1st ex.s. c 18 § 2; 1963 c 38 § 18; 1935 c 98 § 3; RRS § 10132-2. Formerly RCW 43.69.030.]

NOTES:

Section captions not law—1990 c 83: "Section captions as used in this act do not constitute any part of the law." [1990 c 83 § 3.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

18.64.009

Department of health—Enforcement employees declared to be peace officers—Authority.

Employees of the department, who are designated by the commission as enforcement officers, are declared to be peace officers and shall be vested with police powers to enforce chapters 18.64, 69.04, 69.36, 69.40, 69.41, and 69.50 RCW and all other laws enforced by the commission.

[2013 c 19 § 6; 1989 1st ex.s. c 9 § 411; 1985 c 7 § 59; 1979 c 90 § 4; 1969 ex.s. c 82 § 1.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.011

Definitions.

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) "Commission" means the pharmacy quality assurance commission.

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

(5) "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.

(6) "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.

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

(8) "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.

(9) "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.

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

(11) "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.

(12) "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.

(13) "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.

(14) "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.

(15) "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.

(16) "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.

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

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

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

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

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

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

(23) "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.

(24) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(25) "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.

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

(27) "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.

Chapter 18.64 RCW

PHARMACISTS

[2015 c 234 § 3. Prior: 2013 c 146 § 1; 2013 c 144 § 13; 2013 c 19 § 7; prior: 2009 c 549 § 1008; 1997 c 129 § 1; 1995 c 319 § 2; 1989 1st ex.s. c 9 § 412; 1984 c 153 § 3; 1982 c 182 § 29; 1979 c 90 § 5; 1963 c 38 § 1.]

NOTES:

Effective date—2013 c 146: "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 immediately [May 7, 2013]." [2013 c 146 § 3.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.020

Licensing required.

It shall hereafter be unlawful for any person to practice pharmacy or to institute or operate any pharmacy unless such person shall be a licensed pharmacist or shall place in charge of said pharmacy a licensed pharmacist: PROVIDED, That persons licensed as manufacturers or as wholesalers, and their employees, acting within the scope of their licenses, shall be exempt from this section.

[1979 c 90 § 6; 1899 c 121 § 1; RRS § 10126. Prior: 1891 c 113 § 1. Formerly RCW 18.67.010, part.]

18.64.040

Examination fee.

Every applicant for license examination under this chapter shall pay the sum determined by the secretary under RCW 43.70.250 and 43.70.280 before the examination is attempted.

[1996 c 191 § 42; 1989 1st ex.s. c 9 § 413; 1979 c 90 § 7; 1971 ex.s. c 201 § 1; 1963 c 38 § 2; 1949 c 153 § 1; 1935 c 98 § 4; 1909 c 213 § 5; 1899 c 121 § 10; Rem. Supp. 1949 § 10135.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1971 ex.s. c 201: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 201 § 9.]

18.64.043

Pharmacy license—Fee—Display—Declaration of ownership and location—Penalties.

(1) The owner of each pharmacy shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to operate such pharmacy at the location specified, or such other temporary location as the secretary may approve, for the period ending on a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, and each such owner shall at the time of filing proof of payment of such fee as provided in RCW 18.64.045 as now

or hereafter amended, file with the department on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of ownership of the pharmacy mentioned therein. For a hospital licensed under chapter 70.41 RCW, the license of location provided under this section may include any individual practitioner's office or multipractitioner clinic owned and operated by a hospital, and identified by the hospital on the pharmacy application or renewal. A hospital that elects to include one or more offices or clinics under this subsection on its pharmacy application must maintain the office or clinic under its pharmacy license through at least one pharmacy inspection or twenty-four months. However, the department may, in its discretion, allow a change in licensure at an earlier time. The secretary may adopt rules to establish an additional reasonable fee for any such office or clinic.

(2) It shall be the duty of the owner to immediately notify the department of any change of location or ownership and to keep the license of location or the renewal thereof properly exhibited in said pharmacy.

(3) Failure to comply with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense.

(4) In the event such license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

[2015 c 234 § 4; 1996 c 191 § 43; 1991 c 229 § 3; 1989 1st ex.s. c 9 § 414; 1984 c 153 § 4; 1979 c 90 § 8; 1971 ex.s. c 201 § 2; 1963 c 38 § 3; 1949 c 153 § 4; 1935 c 98 § 8; 1909 c 213 § 12; Rem. Supp. 1949 § 10145. Formerly RCW 18.67.020.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.044

Shopkeeper's registration—Penalty—Ephedrine/pseudoephedrine/phenylpropanolamine.

(1) A shopkeeper registered as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer.

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is required to register as a shopkeeper through the business licensing system established under chapter 19.02 RCW, and he or she must pay the fee determined by the secretary for registration, and on a date to be determined by the secretary thereafter the fee determined by the secretary for renewal of the registration; and must at all times keep said registration or the current renewal thereof conspicuously exposed in the location to which it applies. In event such shopkeeper's registration is not renewed by the business license expiration date, no renewal or new registration may be issued except upon payment of the registration renewal fee and the business license delinquency fee under chapter 19.02 RCW. This registration fee does not authorize the sale of legend drugs or controlled substances.

(3) The registration fees determined by the secretary under subsection (2) of this section may not exceed the cost of registering the shopkeeper.

(4) Any shopkeeper who vends or sells, or offers to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell constitutes a separate offense.

(5) A shopkeeper who is not a licensed pharmacy may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by

the department under RCW 18.64.045. The commission must issue a warning to a shopkeeper who violates this subsection, and may suspend or revoke the registration of the shopkeeper for a subsequent violation.

(6) A shopkeeper who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the shopkeeper's total prior monthly sales of nonprescription drugs in March through October. In November through February, the shopkeeper may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the shopkeeper's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The commission may suspend or revoke the registration of a shopkeeper who violates this subsection.

(b) The shopkeeper must maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the commission. The records must be available for inspection by the commission or any law enforcement agency and must be maintained for two years. The commission may suspend or revoke the registration of a shopkeeper who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor. [2013 c 144 § 14; 2013 c 19 § 8; 2005 c 388 § 5; 2004 c 52 § 2. Prior: 1989 1st ex.s. c 9 § 401; 1989 c 352 § 1; 1984 c 153 § 5; 1982 c 182 § 30; 1979 c 90 § 17.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 8 and by 2013 c 144 § 14, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—2004 c 52: "The legislature finds that quantities of ephedrine, pseudoephedrine, and phenylpropanolamine continue to be sold at the wholesale and retail levels far in excess of legitimate consumer needs. The excess quantities being sold are most likely used in the criminal manufacture of methamphetamine. It is therefore necessary for the legislature to further regulate the sales of these drugs, including sales from out-of-state sources, in order to reduce the threat that methamphetamine presents to the people of the state." [2004 c 52 § 1.]

Severability—2004 c 52: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2004 c 52 § 8.]

Effective date—2004 c 52: "This act takes effect July 1, 2004." [2004 c 52 § 9.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Business licensing
delinquency fee—Rate—Disposition: RCW 19.02.085.
expiration date: RCW 19.02.090.
system
generally: RCW 18.64.011(3).
to include additional licenses: RCW 19.02.110.

18.64.045

Manufacturer's license—Fees—Display—Declaration of ownership and location—Penalties.

(1) The owner of each and every place of business which manufactures drugs shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, for which the owner shall receive a license of location from the department, which shall entitle the owner to manufacture drugs at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location or ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

[2003 c 53 § 132; 1996 c 191 § 44; 1991 c 229 § 4; 1989 1st ex.s. c 9 § 416; 1984 c 153 § 6; 1979 c 90 § 9; 1971 ex.s. c 201 § 3; 1963 c 38 § 4; 1949 c 153 § 5; Rem. Supp. 1949 § 10154-4. Formerly RCW 18.67.140.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.046

Wholesaler's license—Required—Authority of licensee—Penalty—Ephedrine/pseudoephedrine/phenylpropanolamine.

(1) The owner of each place of business which sells legend drugs and nonprescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the secretary, and thereafter, on or before a date to be determined by the secretary as provided in RCW 43.70.250 and 43.70.280, a like fee to be determined by the secretary, for which the owner shall receive a license of location from the department, which shall entitle such owner to either sell legend drugs and nonprescription drugs or nonprescription drugs at wholesale at the location specified for the period ending on a date to be determined by the secretary, and each such owner shall at the time of payment of such fee file with the department, on a blank therefor provided, a declaration of ownership and location, which declaration of ownership and location so filed as aforesaid shall be deemed presumptive evidence of the ownership of such place of business mentioned therein. It shall be the duty of the owner to notify immediately the department of any change of location and ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business.

(2) Failure to conform with this section is a misdemeanor, and each day that the failure continues is a separate offense.

(3) In event the license fee remains unpaid on the date due, no renewal or new license shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280.

(4) No wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products to persons within the state of Washington exceed five percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state in March through October. In November through February, no wholesaler may sell any quantity of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers if the total monthly sales of these products to persons within the state of Washington exceed ten percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons within the state. For purposes of this section, monthly sales means total dollars paid by buyers. The commission may suspend or revoke the license of any wholesaler that violates this section.

(5) The commission may exempt a wholesaler from the limitations of subsection (4) of this section if it finds that the wholesaler distributes nonprescription drugs only through transactions between divisions, subsidiaries, or related companies when the wholesaler and the retailer are related by common ownership, and that neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs as defined in RCW 69.43.035.

(6) The requirements for a license apply to all persons, in Washington and outside of Washington, who sell both legend drugs and nonprescription drugs and to those who sell only nonprescription drugs, at wholesale to pharmacies, practitioners, and shopkeepers in Washington.

(7)(a) No wholesaler may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, to any person in Washington other than a pharmacy licensed under this chapter, a shopkeeper or itinerant vendor registered under this chapter, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner as defined in RCW 69.43.105.

(b) A violation of this subsection is punishable as a class C felony according to chapter 9A.20 RCW, and each sale in violation of this subsection constitutes a separate offense.

[2013 c 19 § 9; 2005 c 388 § 6; 2004 c 52 § 3; 2003 c 53 § 133; 1996 c 191 § 45; 1991 c 229 § 5; 1989 1st ex.s. c 9 § 417; 1984 c 153 § 7; 1979 c 90 § 18.]

NOTES:

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.047

Itinerant vendor's or peddler's registration—Fee—Penalties—Ephedrine/pseudoephedrine/phenylpropanolamine.

(1) Any itinerant vendor or any peddler of any nonprescription drug or preparation for the treatment of disease or injury, shall pay a registration fee determined by the secretary on a date to be determined by the

secretary as provided in RCW 43.70.250 and 43.70.280. The department may issue a registration to such vendor on an approved application made to the department.

(2) Any itinerant vendor or peddler who shall vend or sell, or offer to sell to the public any such nonprescription drug or preparation without having registered to do so as provided in this section, is guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

(3) In event the registration fee remains unpaid on the date due, no renewal or new registration shall be issued except upon compliance with administrative procedures, administrative requirements, and fees determined as provided in RCW 43.70.250 and 43.70.280. This registration shall not authorize the sale of legend drugs or controlled substances.

(4) An itinerant vendor may purchase products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers only from a wholesaler licensed by the department under RCW 18.64.046 or from a manufacturer licensed by the department under RCW 18.64.045. The commission shall issue a warning to an itinerant vendor who violates this subsection, and may suspend or revoke the registration of the vendor for a subsequent violation.

(5) An itinerant vendor who has purchased products containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in a suspicious transaction as defined in RCW 69.43.035, is subject to the following requirements:

(a) The itinerant vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed ten percent of the vendor's total prior monthly sales of nonprescription drugs in March through October. In November through February, the vendor may not sell any quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, if the total monthly sales of these products exceed twenty percent of the vendor's total prior monthly sales of nonprescription drugs. For purposes of this section, "monthly sales" means total dollars paid by buyers. The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection.

(b) The itinerant vendor shall maintain inventory records of the receipt and disposition of nonprescription drugs, utilizing existing inventory controls if an auditor or investigator can determine compliance with (a) of this subsection, and otherwise in the form and manner required by the commission. The records must be available for inspection by the commission or any law enforcement agency and must be maintained for two years. The commission may suspend or revoke the registration of an itinerant vendor who violates this subsection. For purposes of this subsection, "disposition" means the return of product to the wholesaler or distributor.

[2013 c 19 § 10; 2005 c 388 § 7; 2004 c 52 § 4; 2003 c 53 § 134; 1996 c 191 § 46; 1991 c 229 § 6; 1989 1st ex.s. c 9 § 418; 1984 c 153 § 8; 1979 c 90 § 10; 1971 ex.s. c 201 § 4; 1963 c 38 § 5; 1949 c 153 § 3; 1935 c 98 § 7; 1899 c 121 § 16; Rem. Supp. 1949 § 10141. Formerly RCW 18.60.010 through 18.60.030.]

NOTES:

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

18.64.050

Duplicate for lost or destroyed license or certificate—Certified documents—Fees.

In the event that a license or certificate issued by the department is lost or destroyed, the person to whom it was issued may obtain a duplicate thereof upon furnishing proof of such fact satisfactory to the department and the payment of a fee determined by the secretary.

In the event any person desires any certified document to which he or she is entitled, he or she shall receive the same upon payment of a fee determined by the secretary.

[2011 c 336 § 494; 1989 1st ex.s. c 9 § 419; 1984 c 153 § 9; 1963 c 38 § 6; 1935 c 98 § 9; RRS § 10145-1. FORMER PART OF SECTION: 1935 c 98 § 10; RRS § 10145-2, now codified as RCW 18.64.055.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.080
Licensing of pharmacists—Registration of interns—Prerequisites—Examinations—Reciprocity—Fees—Renewal.

(1) The department may license as a pharmacist any person who has filed an application therefor, subscribed by the person under oath or affirmation, containing such information as the commission may by regulation require, and who—

(a) Is at least eighteen years of age;

(b) Has satisfied the commission that he or she is of good moral and professional character, that he or she will carry out the duties and responsibilities required of a pharmacist, and that he or she is not unfit or unable to practice pharmacy by reason of the extent or manner of his or her proven use of alcoholic beverages, drugs, or controlled substances, or by reason of a proven physical or mental disability;

(c) Holds a baccalaureate degree in pharmacy or a doctor of pharmacy degree granted by a school or college of pharmacy which is accredited by the commission;

(d) Has completed or has otherwise met the internship requirements as set forth in commission rules;

(e) Has satisfactorily passed the necessary examinations approved by the commission and administered by the department.

(2) The department shall, at least once in every calendar year, offer an examination to all applicants for a pharmacist license who have completed their educational and internship requirements pursuant to rules promulgated by the commission. The examination shall be determined by the commission. In case of failure at a first examination, the applicant shall have within three years the privilege of a second and third examination. In case of failure in a third examination, the applicant shall not be eligible for further examination until he or she has satisfactorily completed additional preparation as directed and approved by the commission. The applicant must pay the examination fee determined by the secretary for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the commission and the provisions of this chapter, the department shall grant the applicant a license as a pharmacist and issue to him or her a certificate qualifying him or her to enter into the practice of pharmacy.

(3) Any person enrolled as a student of pharmacy in an accredited college may file with the department an application for registration as a pharmacy intern in which application he or she shall be required to furnish such information as the commission may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the department a fee to be determined by the secretary. All certificates issued to pharmacy interns shall be valid for a period to be determined by the commission, but in no instance shall the

certificate be valid if the individual is no longer making timely progress toward graduation, provided however, the commission may issue an intern certificate to a person to complete an internship to be eligible for initial licensure or for the reinstatement of a previously licensed pharmacist.

(4) To assure adequate practical instruction, pharmacy internship experience as required under this chapter shall be obtained after registration as a pharmacy intern by practice in any licensed pharmacy or other program meeting the requirements promulgated by regulation of the commission, and shall include such instruction in the practice of pharmacy as the commission by regulation shall prescribe.

(5) The department may, without examination other than one in the laws relating to the practice of pharmacy, license as a pharmacist any person who, at the time of filing application therefor, is currently licensed as a pharmacist in any other state, territory, or possession of the United States. The person shall produce evidence satisfactory to the department of having had the required secondary and professional education and training and who was licensed as a pharmacist by examination in another state prior to June 13, 1963, shall be required to satisfy only the requirements which existed in this state at the time he or she became licensed in such other state, and that the state in which the person is licensed shall under similar conditions grant reciprocal licenses as pharmacist without examination to pharmacists duly licensed by examination in this state. Every application under this subsection shall be accompanied by a fee determined by the department.

(6) The department shall provide for, regulate, and require all persons licensed as pharmacists to renew their license periodically, and shall prescribe the form of such license and information required to be submitted by all applicants.

[2013 c 19 § 11. Prior: 1989 1st ex.s. c 9 §§ 403, 420; 1989 c 352 § 3; 1984 c 153 § 10; 1981 c 147 § 1; 1979 c 90 § 11; 1972 ex.s. c 9 § 1; prior: 1971 ex.s. c 292 § 25; 1971 ex.s. c 201 § 5; 1963 c 38 § 7; 1931 c 56 § 1; 1927 c 253 § 1; 1923 c 180 § 3; RRS § 10126-3. Formerly RCW 18.64.010, part, 18.64.080 and 18.64.090, part.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.140

License—Fees—Display—Inactive license.

Every licensed pharmacist who desires to practice pharmacy shall secure from the department a license, the fee for which shall be determined by the secretary under RCW 43.70.250 and 43.70.280. The administrative procedures, administrative requirements, renewal fee, and late renewal fee shall also be determined under RCW 43.70.250 and 43.70.280. Payment of this fee shall entitle the licensee to a pharmacy law book, subsequent current mailings of all additions, changes, or deletions in the pharmacy practice act, chapter 18.64 RCW, and all additions, changes, or deletions of commission and department regulations. The current license shall be conspicuously displayed to the public in the pharmacy to which it applies. Any licensed pharmacist who desires to leave the active practice of pharmacy in this state may secure from the department an inactive license. The initial license and renewal fees shall be determined by the secretary under RCW 43.70.250 and 43.70.280. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the commission.

[2013 c 19 § 12; 1996 c 191 § 47; 1991 c 229 § 7; 1989 1st ex.s. c 9 § 421; 1984 c 153 § 11; 1979 c 90 § 12; 1971 ex.s. c 201 § 6; 1963 c 38 § 9; 1949 c 153 § 2; 1935 c 98 § 5; 1899 c 121 § 11; Rem. Supp. 1949 § 10136. Formerly RCW 18.64.140 and 18.64.150.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1971 ex.s. c 201: See note following RCW 18.64.040.

Chapter 18.64 RCW

PHARMACISTS

18.64.160

Disciplinary action against pharmacist's and intern's licenses—Grounds.

In addition to the grounds under RCW 18.130.170 and 18.130.180, the commission may take disciplinary action against the license of any pharmacist or intern upon proof that:

(1) His or her license was procured through fraud, misrepresentation, or deceit;

(2) In the event that a pharmacist is determined by a court of competent jurisdiction to be mentally incompetent, the pharmacist shall automatically have his or her license suspended by the commission upon the entry of the judgment, regardless of the pendency of an appeal;

(3) He or she has knowingly violated or permitted the violation of any provision of any state or federal law, rule, or regulation governing the possession, use, distribution, or dispensing of drugs, including, but not limited to, the violation of any provision of this chapter, Title 69 RCW, or rule or regulation of the commission;

(4) He or she has knowingly allowed any unlicensed person to take charge of a pharmacy or engage in the practice of pharmacy, except a pharmacy intern or pharmacy assistant acting as authorized in this chapter or chapter 18.64A RCW in the presence of and under the immediate supervision of a licensed pharmacist;

(5) He or she has compounded, dispensed, or caused the compounding or dispensing of any drug or device which contains more or less than the equivalent quantity of ingredient or ingredients specified by the person who prescribed such drug or device: PROVIDED, HOWEVER, That nothing herein shall be construed to prevent the pharmacist from exercising professional judgment in the preparation or providing of such drugs or devices.

[2013 c 19 § 13; 1993 c 367 § 13; 1985 c 7 § 60; 1984 c 153 § 12; 1979 c 90 § 13; 1963 c 38 § 10; 1909 c 213 § 10; RRS § 10143. Formerly RCW 18.64.160 through 18.64.190.]

18.64.163

Uniform Disciplinary Act.

The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses of pharmacists and pharmacy interns, and the discipline of licensed pharmacists and pharmacy interns under this chapter.

[1993 c 367 § 14.]

18.64.165

Refusal, suspension, and revocation of other licenses.

The commission shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, peddler, poison distributor, health care entity, or precursor chemical distributor upon proof that:

(1) The license was procured through fraud, misrepresentation, or deceit;

(2) The licensee has violated or has permitted any employee to violate any of the laws of this state or the United States relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the commission or has been convicted of a felony.

[2013 c 19 § 14; 1995 c 319 § 5. Prior: 1989 1st ex.s. c 9 § 404; 1989 c 352 § 4; 1979 c 90 § 14; 1963 c 38 § 15.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.64.200

Refusal, suspension, and revocation of other licenses—Appeal procedure.

In any case of the refusal, suspension or revocation of a license by the commission under the provisions of this chapter, appeal may be taken in accordance with the administrative procedure act.

[2013 c 19 § 15; 1963 c 38 § 11; 1909 c 213 § 11; RRS § 10144. Formerly RCW 18.64.200 through 18.64.240.]

NOTES:

Administrative Procedure Act: Title 34 RCW.

18.64.205

Retired active license status.

The commission may adopt rules pursuant to this section authorizing a retired active license status. An individual licensed pursuant to this chapter, who is practicing only in emergent or intermittent circumstances as defined by rule established by the commission, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250 and 43.70.280. Such a license shall meet the continuing education requirements, if any, established by the commission for renewals, and is subject to the provisions of the uniform disciplinary act, chapter 18.130 RCW. Individuals who have entered into retired status agreements with the disciplinary authority in any jurisdiction shall not qualify for a retired active license under this section.

[2013 c 19 § 16; 1996 c 191 § 48; 1991 c 229 § 2.]

18.64.245

Prescription records—Penalty.

(1) Every proprietor or manager of a pharmacy shall keep readily available a suitable record of prescriptions which shall preserve for a period of not less than two years the record of every prescription dispensed at such pharmacy which shall be numbered, dated, and filed, and shall produce the same in court or before any grand jury whenever lawfully required to do so. The record shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy. All recordkeeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only. The record of prescriptions shall be open for inspection by the commission or any officer of the law, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.

(2) A person violating this section is guilty of a misdemeanor.

Chapter 18.64 RCW

PHARMACISTS

[2013 c 19 § 17; 2003 c 53 § 135. Prior: 1989 1st ex.s. c 9 § 402; 1989 c 352 § 2; 1979 c 90 § 15; 1939 c 28 § 1; RRS § 6154-1. Formerly RCW 18.67.090.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.246

Prescriptions—Labels—Cover or cap to meet safety standards—Penalty.

(1) To every box, bottle, jar, tube or other container of a prescription which is dispensed there shall be fixed a label bearing the name and address of the dispensing pharmacy, the prescription number, the name of the prescriber, the prescriber's directions, the name and strength of the medication, the name of the patient, the date, and the expiration date. The security of the cover or cap on every bottle or jar shall meet safety standards adopted by the commission. At the prescriber's request, the name and strength of the medication need not be shown. If the prescription is for a combination medication product, the generic names of the medications combined or the trade name used by the manufacturer or distributor for the product shall be noted on the label. The identification of the licensed pharmacist responsible for each dispensing of medication must either be recorded in the pharmacy's record system or on the prescription label. This section shall not apply to the dispensing of medications to in-patients in hospitals.

(2) A person violating this section is guilty of a misdemeanor.

[2013 c 19 § 18; 2003 c 53 § 136; 2002 c 96 § 1; 1984 c 153 § 13; 1971 ex.s. c 99 § 1; 1939 c 28 § 2; RRS § 6154-2. Formerly RCW 18.67.080.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.64.250

Unlawful practices—Penalty for violations—Exceptions.

(1) Any person not a licensed pharmacist and not having continuously and regularly in his employ a duly licensed pharmacist within the full meaning of this chapter, who shall practice pharmacy; or

(2) Any person who shall permit the compounding and dispensing of prescriptions, or vending of drugs, medicines, or poisons in his or her store or place of business, except under the supervision of a licensed pharmacist; or

(3) Any licensed pharmacist or shopkeeper licensed under this chapter, who while continuing in business, shall fail or neglect to procure his or her renewal of license; or

(4) Any person who shall wilfully make any false representations to procure a license for himself or herself or for any other person; or

(5) Any person who shall violate any of the provisions of this chapter wilfully and knowingly; or

(6) Any person who shall take or use or exhibit in or upon any place of business, or advertise in a newspaper, telephone directory, or other directory, or by electronic media, or in any other manner, the title of pharmacist, pharmacy intern, pharmacy assistant, druggist, pharmacy, drug store, medicine store, drug

department, drugs, drug sundries, or any title or name of like description or import, or display or permit to be displayed upon said place of business the characteristic pharmacy symbols, bottles or globes, either colored or filled with colored liquids, without having continuously and regularly employed in his or her shop, store, or place of business, during business hours of the pharmacy, a pharmacist duly licensed under this chapter; shall be guilty of a misdemeanor, and each and every day that such prohibited practice continues shall be deemed a separate offense.
[1979 c 90 § 16; 1963 c 38 § 12; 1935 c 98 § 6; 1909 c 213 § 7; 1899 c 121 § 13; RRS § 10138. Formerly RCW 18.64.250, 18.64.010, 18.64.030, 18.67.030, 18.67.040 and 18.67.130. FORMER PART OF SECTION: 1909 c 213 § 13; RRS § 10146, now codified as RCW 18.64.280.]

18.64.255

Authorized practices.

Nothing in this chapter shall operate in any manner:

(1) To restrict the scope of authorized practice of any practitioner other than a pharmacist, duly licensed as such under the laws of this state. However, a health care entity shall comply with all state and federal laws and rules relating to the dispensing of drugs and the practice of pharmacy; or

(2) In the absence of the pharmacist from the hospital pharmacy, to prohibit a registered nurse designated by the hospital and the responsible pharmacist from obtaining from the hospital pharmacy such drugs as are needed in an emergency: PROVIDED, That proper record is kept of such emergency, including the date, time, name of prescriber, the name of the nurse obtaining the drugs, and a list of what drugs and quantities of same were obtained; or

(3) To prevent shopkeepers, itinerant vendors, peddlers, or salespersons from dealing in and selling nonprescription drugs, if such drugs are sold in the original packages of the manufacturer, or in packages put up by a licensed pharmacist in the manner provided by the commission, if such shopkeeper, itinerant vendor, salesperson, or peddler shall have obtained a registration.
[2013 c 19 § 19; 2011 c 336 § 495; 1995 c 319 § 7; 1984 c 153 § 14; 1981 c 147 § 3; 1979 c 90 § 19.]

18.64.257

Prescription of legend drugs by dialysis programs.

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the commission pursuant to rule.
[2013 c 19 § 20; 1987 c 41 § 1.]

NOTES:

Application of legend drug statutes to dialysis programs: RCW 69.41.032.

18.64.270

Responsibility for drug purity—Compounding—Adulteration—Penalty.

(1) Every proprietor of a wholesale or retail drug store shall be held responsible for the quality of all drugs, chemicals or medicines sold or dispensed by him or her except those sold in original packages of the manufacturer and except those articles or preparations known as patent or proprietary medicines.

(2) Any medicinal products that are compounded for patient administration or distribution to a licensed practitioner for patient use or administration shall, at a minimum, meet the standards of the official United States pharmacopeia as it applies to nonsterile products and sterile administered products.

(3) Any person who shall knowingly, willfully or fraudulently falsify or adulterate any drug or medicinal substance or preparation authorized or recognized by an official compendium or used or intended to be used in medical practice, or shall willfully, knowingly or fraudulently offer for sale, sell or cause the same to be sold for medicinal purposes, is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not less than seventy-five nor more than one hundred and fifty dollars or by imprisonment in the county jail for a period of not less than one month nor more than three months, and any person convicted a third time for violation of this section may suffer both fine and imprisonment. In any case he or she shall forfeit to the state of Washington all drugs or preparations so falsified or adulterated.

[2013 c 146 § 2; 2003 c 53 § 137; 1963 c 38 § 13; 1899 c 121 § 14; RRS § 10139. Prior: 1891 c 153 § 15. Formerly RCW 18.67.100 and 18.67.120.]

NOTES:

Effective date—2013 c 146: See note following RCW 18.64.011.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

18.64.275

Limitations on liability for dispensing of prescription.

(1) A pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer pursuant to a prescription issued by a licensed practitioner is not liable to a person who was injured through the use of the product, based on a claim of the following:

(a) Strict liability in tort; or

(b) Implied warranty provisions under the uniform commercial code Title 62A RCW.

(2) The limitation on pharmacist's liability as provided in subsection (1) of this section shall only apply if the pharmacist complies with recordkeeping requirements pursuant to chapters 18.64, 69.41, and 69.50 RCW, and related administrative rules.

(3) A pharmacist who dispenses a prescription product in the form manufactured by a commercial manufacturer issued by a licensed practitioner is liable to the claimant only if the claimant's harm was proximately caused by (a) the negligence of the pharmacist; (b) breach of an express warranty made by the pharmacist; or (c) the intentional misrepresentation of facts about the product by the pharmacist or the intentional concealment of information about the product by the pharmacist. A pharmacist shall not be liable for the product manufacturer's liability except as provided in RCW 7.72.040.

[1991 c 189 § 1.]

18.64.280

General penalty.

Any person who shall violate any of the provisions of chapter 18.64 RCW and for which a penalty is not provided shall be deemed guilty of a gross misdemeanor.

[1963 c 38 § 14; 1909 c 213 § 13; RRS § 10146. Formerly RCW 18.64.250, part.]

18.64.310

Department of health—Powers and duties.

The department shall:

(1) Establish reasonable license and examination fees and fees for services to other agencies in accordance with RCW 43.70.250 and 43.70.280. In cases where there are unanticipated demands for services, the department may request payment for services directly from the agencies for whom the services are performed, to the extent that revenues or other funds are available. Drug-related investigations regarding licensed health care practitioners shall be funded by an appropriation to the department from the health professions account. The payment may be made on either an advance or a reimbursable basis as approved by the director of financial management;

(2) Employ, with confirmation by the commission, an executive officer, who shall be exempt from the provisions of chapter 41.06 RCW and who shall be a pharmacist licensed in Washington, and employ inspectors, investigators, chemists, and other persons as necessary to assist it for any purpose which it may deem necessary;

(3) Investigate and prosecute, at the direction of the commission, including use of subpoena powers, violations of law or regulations under its jurisdiction or the jurisdiction of the commission;

(4) Make, at the direction of the commission, inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law. The written operating agreement between the department and the commission, as required by RCW 43.70.240 shall include provisions for the department to involve the commission in carrying out its duties required by this section.

[2013 c 19 § 21; 1996 c 191 § 49; 1989 1st ex.s. c 9 § 410.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64.350

Nonresident pharmacies—Findings.

(1) The legislature finds and declares that the practice of pharmacy is a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use and drug-related therapy.

(2) The legislature recognizes that with the proliferation of alternate methods of health delivery, there has arisen among third-party payors and insurance companies the desire to control the cost and utilization of pharmacy services through a variety of mechanisms, including the use of mail-order pharmacies located outside the state of Washington.

(3) As a result, the legislature finds and declares that to continue to protect the Washington consumer-patient, all out-of-state pharmacies, including those located in Canada, that provide services to Washington residents shall be licensed by the department of health, disclose specific information about their services, and provide pharmacy services at a high level of protection and competence.

[2005 c 275 § 2; 1991 c 87 § 1.]

NOTES:

Chapter 18.64 RCW

PHARMACISTS

Finding—Intent—2005 c 275: "The legislature finds that as consumers' prescription drug costs continue to rise, people across the state of Washington are exercising the option to purchase prescription drugs from Canada for their personal use. The state has a strong interest in the safety of drugs purchased through this mechanism. To address this interest, the legislature intends to authorize the *state board of pharmacy to regulate nonresident Canadian pharmacies." [2005 c 275 § 1.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

Effective date—1991 c 87: "This act shall take effect October 1, 1991." [1991 c 87 § 15.]

18.64.360

Nonresident pharmacies—Definition—Requirements—Exemption—Reciprocity with Canadian pharmacies.

(1) For the purposes of this chapter any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state is a nonresident pharmacy, and shall be licensed by the department of health, and shall disclose to the department the following:

(a) The location, names, and titles of all owners including corporate officers and all pharmacists employed by the pharmacy who are dispensing controlled substances, legend drugs, or devices to residents of this state. A report containing this information shall be made on an annual basis and within ninety days after a change of location, corporate officer, or pharmacist;

(b) Proof of compliance with all lawful directions and requests for information from the regulatory or licensing agency of the state or Canadian province in which it is licensed as well as with all requests for information made by the department of health under this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to operate the pharmacy in compliance with the laws of the state or Canadian province in which it is located. As a prerequisite to be licensed by the department of health, the nonresident pharmacy shall submit a copy of the most recent inspection report issued by the regulatory licensing agency of the state or Canadian province in which it is located;

(c) Proof that it maintains its records of controlled substances, legend drugs, or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.

(2) Any pharmacy subject to this section shall, during its regular hours of operation, provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the pharmacy who has access to the patient's records. This toll-free number shall be disclosed on the label affixed to each container of drugs dispensed to patients in this state.

(3) A pharmacy subject to this section shall comply with commission rules regarding the maintenance and use of patient medication record systems.

(4) A pharmacy subject to this section shall comply with commission rules regarding the provision of drug information to the patient. Drug information may be contained in written form setting forth directions for use and any additional information necessary to assure the proper utilization of the medication prescribed. A label bearing the expiration date of the prescription must be affixed to each box, bottle, jar, tube, or other container of a prescription that is dispensed in this state by a pharmacy subject to this section.

(5) A pharmacy subject to this section shall not dispense medication in a quantity greater than authorized by the prescriber.

(6) The license fee specified by the secretary, in accordance with the provisions of RCW 43.70.250, shall not exceed the fee charged to a pharmacy located in this state.

(7) The license requirements of this section apply to nonresident pharmacies that ship, mail, or deliver controlled substances, legend drugs, and devices into this state only under a prescription. The commission may grant an exemption from licensing under this section upon application by an out-of-state pharmacy that restricts its dispensing activity in Washington to isolated transactions.

(8) Each nonresident pharmacy that ships, mails, or delivers legend drugs or devices into this state shall designate a resident agent in Washington for service of process. The designation of such an agent does not indicate that the nonresident pharmacy is a resident of Washington for tax purposes.

(9) The commission shall attempt to develop a reciprocal licensing agreement for licensure of nonresident pharmacies with Health Canada or an applicable Canadian province. If the commission is unable to develop such an agreement, the commission shall develop a process to license participating Canadian nonresident pharmacies through on-site inspection and certification.

[2013 c 19 § 22; 2005 c 275 § 3; 1996 c 109 § 1; 1991 c 87 § 2.]

NOTES:

Finding—Intent—2005 c 275: See note following RCW 18.64.350.

Effective date—1991 c 87: See note following RCW 18.64.350.

18.64.370

Nonresident pharmacies—License required—Application—Renewal.

(1) A nonresident pharmacy that has not obtained a license from the department of health shall not conduct the business of selling or distributing drugs in this state.

(2) Applications for a nonresident pharmacy license under RCW 18.64.350 through 18.64.400 shall be made on a form furnished by the department. The department may require such information as it deems is reasonably necessary to carry out the purpose of RCW 18.64.350 through 18.64.400.

(3) The nonresident pharmacy license shall be renewed annually on a date to be established by the department by rule. In the event the license fee remains unpaid, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee.

[1991 c 87 § 3.]

NOTES:

Effective date—1991 c 87: See note following RCW 18.64.350.

18.64.380

Nonresident pharmacies—Information required—Inspection.

A nonresident pharmacy shall:

(1) Submit to the department, upon request, information acceptable to the secretary concerning controlled substances shipped, mailed, or delivered to a Washington resident.

(2) Submit to on-site inspection by the department of the nonresident pharmacy's prescription records if the information in subsection (1) of this section is not provided to the department upon request.

[1991 c 87 § 4.]

NOTES:

Effective date—1991 c 87: See note following RCW 18.64.350.

Chapter 18.64 RCW

PHARMACISTS

18.64.390

Nonresident pharmacies—Violations—Penalties.

(1) The commission may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for failure to comply with any requirement of RCW 18.64.350 through 18.64.400.

(2) The commission may deny, revoke, or suspend a nonresident pharmacy license or impose a fine not to exceed one thousand dollars per violation for conduct that causes serious bodily or psychological injury to a resident of this state if the secretary has referred the matter to the regulatory or licensing agency in the state in which the pharmacy is located and that regulatory or licensing agency fails to initiate an investigation within forty-five days of the referral under this subsection or fails to make a determination on the referral.

[2013 c 19 § 23; 1991 c 87 § 5.]

NOTES:

Effective date—1991 c 87: See note following RCW 18.64.350.

18.64.400

Nonresident pharmacies—Definition—Advertising.

For the purposes of this chapter, a nonresident pharmacy is defined as any pharmacy located outside this state that ships, mails, or delivers, in any manner, except when delivered in person to an individual, controlled substances, legend drugs, or devices into this state. It is unlawful for:

(1) Any nonresident pharmacy that is not licensed under RCW 18.64.350 through 18.64.400 to advertise its service in this state; or

(2) Any resident of this state to advertise the pharmaceutical services of a nonresident pharmacy with the knowledge that the nonresident pharmacy is not licensed by the department and that the advertisement will or is likely to induce persons within this state to use the nonresident pharmacy to fill prescriptions.

[1991 c 87 § 6.]

NOTES:

Effective date—1991 c 87: See note following RCW 18.64.350.

18.64.410

Nonresident pharmacies—Rules.

The commission may adopt rules to implement the provisions of RCW 18.64.350 through 18.64.400 and 18.64.420.

[2013 c 19 § 24; 1991 c 87 § 11.]

NOTES:

Effective date—1991 c 87: See note following RCW 18.64.350.

18.64.420

Nonresident pharmacies—Information confidential—Exceptions.

All records, reports, and information obtained by the department from or on behalf of an entity licensed under chapter 48.20, 48.21, 48.44, or 48.46 RCW shall be confidential and exempt from inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigation or the proceedings of the commission or the department so long as the commission and the department comply with the provisions of chapter 42.56 RCW. Nothing in this section or in chapter 42.56 RCW shall restrict the commission or the department from complying with any mandatory reporting requirements that exist or may exist under federal law, nor shall the commission or the department be restricted from providing to any person the name of any nonresident pharmacy that is or has been licensed or disciplined under RCW 18.64.350 through 18.64.400.
[2013 c 19 § 25; 2005 c 274 § 226; 1991 c 87 § 12.]

NOTES:

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Effective date—1991 c 87: See note following RCW 18.64.350.

18.64.430

Cost disclosure to health care providers.

The registered or licensed pharmacist under this chapter shall establish and maintain a procedure for disclosing to physicians and other health care providers with prescriptive authority information detailed by prescriber, of the cost and dispensation of all prescriptive medications prescribed by him or her for his or her patients on request. These charges should be made available on at least a quarterly basis for all requested patients and should include medication, dosage, number dispensed, and the cost of the prescription. Pharmacies may provide this information in a summary form for each prescribing physician for all patients rather than as individually itemized reports. All efforts should be made to utilize the existing computerized records and software to provide this information in the least costly format.
[2000 c 171 § 22; 1993 c 492 § 267.]

NOTES:

Cost containment—1993 c 492: "The legislature finds that the spiraling costs of health care continue to surmount efforts to contain them, increasing at approximately twice the inflationary rate. One of the fastest growing segments of the health care expenditure involves prescription medications. By making physicians and other health care providers with prescriptive authority more aware of the cost consequences of health care treatments for consumers, these providers may be inclined to exercise more restraint in providing only the most relevant and cost-beneficial drug and medication treatments. The requirement of the pharmacy to inform physicians and other health care providers of the charges of prescription drugs and medications that they order may have a positive effect on containing health costs. Further, the option of the physician or other health care provider to inform the patient of these charges may strengthen the necessary dialogue in the provider-patient relationship that tends to be diminished by intervening third-party payers." [1993 c 492 § 266.]

Findings—Intent—1993 c 492: See notes following RCW 43.20.050.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Chapter 18.64 RCW

PHARMACISTS

18.64.450

Health care entity—License requirements for legend drugs and controlled substances—Exception.

(1) In order for a health care entity to purchase, administer, dispense, and deliver legend drugs, the health care entity must be licensed by the department.

(2) In order for a health care entity to purchase, administer, dispense, and deliver controlled substances, the health care entity must annually obtain a license from the department in accordance with the commission's rules.

(3) The receipt, administration, dispensing, and delivery of legend drugs or controlled substances by a health care entity must be performed under the supervision or at the direction of a pharmacist.

(4) A health care entity may only administer, dispense, or deliver legend drugs and controlled substances to patients who receive care within the health care entity and in compliance with rules of the commission. Nothing in this subsection shall prohibit a practitioner, in carrying out his or her licensed responsibilities within a health care entity, from dispensing or delivering to a patient of the health care entity drugs for that patient's personal use in an amount not to exceed seventy-two hours of usage.

[2013 c 19 § 26; 1995 c 319 § 3.]

18.64.460

Health care entity—License fee—Requirements—Penalty.

(1) The owner of a health care entity shall pay an original license fee to be determined by the secretary, and annually thereafter, on or before a date to be determined by the secretary, a fee to be determined by the secretary, for which he or she shall receive a license of location, which shall entitle the owner to purchase legend drugs or controlled substances at the location specified for the period ending on a date to be determined by the secretary. A declaration of ownership and location filed with the department under this section shall be deemed presumptive evidence of ownership of the health care entity.

(2) The owner shall immediately notify the department of any change of location or ownership in which case a new application and fee shall be submitted.

(3) It shall be the duty of the owner to keep the license of location or the renewal license properly exhibited in the health care entity.

(4) Failure to comply with this section is a misdemeanor and each day that the failure continues is a separate offense.

(5) In the event that a license fee remains unpaid after the date due, no renewal or new license may be issued except upon payment of the license renewal fee and a penalty fee equal to the original license fee.

[1995 c 319 § 4.]

18.64.470

Health care entity—Records.

Every proprietor or manager of a health care entity shall keep readily available a suitable record of drugs, which shall preserve for a period of not less than two years the record of every drug used at such health care entity. The record shall be maintained either separately from all other records of the health care entity or in such form that the information required is readily retrievable from ordinary business records of the health care entity. All recordkeeping requirements for controlled substances must be complied with. Such record of drugs shall be for confidential use in the health care entity, only. The record of drugs shall be open for inspection by the commission, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.
[2013 c 19 § 27; 1995 c 319 § 6.]

18.64.480

Waiver request to allow importation of prescription drugs from Canada.

(1) By September 1, 2005, the commission shall, in consultation with the department and the health care authority, submit a waiver request to the federal food and drug administration that authorizes the importation of prescription drugs from Canada.

(2) Upon approval of the federal waiver allowing for the importation of prescription drugs from Canada, the commission, in consultation with the department and the health care authority, shall license Canadian pharmacies that provide services to Washington residents under RCW 18.64.350 and 18.64.360.
[2013 c 19 § 28; 2005 c 275 § 4.]

NOTES:

Finding—Intent—2005 c 275: See note following RCW 18.64.350.

18.64.490

Waiver request to authorize the state to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers under RCW 18.64.046—Implementation—Rules.

(1) By September 1, 2005, the commission shall, in consultation with the department and the health care authority, submit a waiver request to the federal food and drug administration that will authorize the state of Washington to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers under RCW 18.64.046, thereby providing retail pharmacies licensed in Washington state the opportunity to purchase prescription drugs from approved wholesalers and pass those savings on to consumers. The waiver shall provide that:

(a) Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers meet the requirements of RCW 18.64.046 and any rules adopted by the commission to implement those requirements;

(b) The commission must ensure the integrity of the prescription drug products being distributed by:

(i) Requiring that prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers originate only from approved manufacturing locations;

(ii) Routinely testing prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers for safety;

(iii) Establishing safe labeling, tracking, and shipping procedures for prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers; and

(iv) Closely monitoring compliance with RCW 18.64.046 and any rules adopted to implement the waiver;

(c) The prescription drugs purchased from Canadian, United Kingdom, Irish, and other nondomestic wholesalers must be limited to those that are not temperature sensitive or infused and for which potential

savings to consumers can be demonstrated and those available through purchase by individuals only at licensed retail pharmacies;

(d) To ensure that the program benefits those consumers without insurance coverage for prescription drugs who are most in need of price relief, prescription drug purchases from pharmacies under the waiver will be limited to those not eligible for reimbursement by third party insurance coverage, whether public or private, for the particular drug being purchased; and

(e) Savings associated with purchasing prescription drugs from Canadian, United Kingdom, Irish, and other nondomestic wholesalers will be passed on to consumers.

(2) Upon approval of the federal waiver submitted in accordance with subsection (1) of this section, the commission, in consultation with the department and the health care authority, shall submit a detailed implementation plan to the governor and appropriate committees of the legislature that details the mechanisms that the commission will use to implement each component of the waiver under subsection (1) of this section.

(3) The commission shall adopt rules as necessary to implement chapter 293, Laws of 2005.
[2013 c 19 § 29; 2005 c 293 § 2.]

NOTES:

Finding—Intent—2005 c 293: "The legislature finds that as consumers' prescription drug costs continue to rise, people across the state of Washington are seeking opportunities to purchase lower cost prescription drugs from Canada, the United Kingdom, Ireland, and other countries for their personal use. The state has a strong interest in promoting the safe use of prescription drugs by consumers in Washington state. To address this interest, the legislature intends to seek authorization from the federal government to license Canadian, United Kingdom, Irish, and other nondomestic prescription drug wholesalers, thereby providing licensed retail pharmacies the opportunity to purchase prescription drugs from approved wholesalers and pass those savings on to consumers, and providing consumers the opportunity to purchase prescription drugs from a trusted community pharmacist who is aware of all of their prescription drug needs." [2005 c 293 § 1.]

Conflict with federal requirements—2005 c 293: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [2005 c 293 § 3.]

18.64.500

Tamper-resistant prescription pads or paper.

(1) Effective July 1, 2010, every prescription written in this state by a licensed practitioner must be written on a tamper-resistant prescription pad or paper approved by the commission.

(2) A pharmacist may not fill a written prescription from a licensed practitioner unless it is written on an approved tamper-resistant prescription pad or paper, except that a pharmacist may provide emergency supplies in accordance with the commission and other insurance contract requirements.

(3) If a hard copy of an electronic prescription is given directly to the patient, the manually signed hard copy prescription must be on approved tamper-resistant paper that meets the requirements of this section.

(4) For the purposes of this section, "tamper-resistant prescription pads or paper" means a prescription pad or paper that has been approved by the commission for use and contains the following characteristics:

(a) One or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form;

(b) One or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription form by the practitioner; and

(c) One or more industry-recognized features designed to prevent the use of counterfeit prescription forms.

(5) Practitioners shall employ reasonable safeguards to assure against theft or unauthorized use of prescriptions.

(6) All vendors must have their tamper-resistant prescription pads or paper approved by the commission prior to the marketing or sale of pads or paper in Washington state.

(7) The commission shall create a seal of approval that confirms that a pad or paper contains all three industry-recognized characteristics required by this section. The seal must be affixed to all prescription pads or paper used in this state.

(8) The commission may adopt rules necessary for the administration of chapter 328, Laws of 2009.

(9) The tamper-resistant prescription pad or paper requirements in this section shall not apply to:

(a) Prescriptions that are transmitted to the pharmacy by telephone, facsimile, or electronic means; or

(b) Prescriptions written for inpatients of a hospital, outpatients of a hospital, residents of a nursing home, inpatients or residents of a mental health facility, or individuals incarcerated in a local, state, or federal correction facility, when the health care practitioner authorized to write prescriptions writes the order into the patient's medical or clinical record, the order is given directly to the pharmacy, and the patient never has the opportunity to handle the written order.

(10) All acts related to the prescribing, dispensing, and records maintenance of all prescriptions shall be in compliance with applicable federal and state laws, rules, and regulations.

[2013 c 19 § 30; 2009 c 328 § 1.]

18.64.510

Limitation on authority to regulate or establish standards regarding a jail.

Nothing in this chapter or in any provision of law shall be interpreted to invest the commission with the authority to regulate or establish standards regarding a jail as defined in RCW 70.48.020 that does not operate, in whole or in part, a pharmacy or a correctional pharmacy. This section does not limit the commission's authority to regulate a pharmacist that has entered into an agreement with a jail for the provision of pharmaceutical services.

[2013 c 19 § 31; 2009 c 411 § 2.]

18.64.520

Dispensing of drug other than controlled substance—Supply limit.

(1) A pharmacist may dispense not more than a ninety-day supply of a drug other than a controlled substance pursuant to a valid prescription that specifies an initial quantity of less than a ninety-day supply followed by periodic refills of that amount if all of the following requirements are satisfied:

(a) The patient has completed an initial thirty-day supply of the drug. However, if the prescription continues the same medication as previously dispensed in a ninety-day supply, the initial thirty-day supply under this subsection (1) is not required;

(b) The total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the prescription including refills;

(c) The prescriber has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary; and

(d) The pharmacist is exercising his or her professional judgment.

(2) In no case may a pharmacist dispense a greater supply of a drug pursuant to this section if the prescriber personally indicates, either orally or in their own handwriting, "no change to quantity," or words of similar meaning. Nothing in this section prohibits a prescriber from checking a box on a prescription marked "no change to quantity," provided that the prescriber personally initials the box or checkmark.

(3) A pharmacist dispensing an increased supply of a drug pursuant to this section shall notify the prescriber of the increase in the quantity of dosage units dispensed.

(4) Nothing in this section may be construed to require a health benefit plan, health carrier, workers' compensation insurance plan, pharmacy benefit manager, or any other person or entity including, but not limited to, a state program or state employer, to provide coverage in a manner inconsistent with the beneficiary's or enrollee's plan benefit.

[2013 c 262 § 1.]

18.64.530

Topical ophthalmic products—Early refills authorized.

A pharmacist is authorized, without consulting a physician or obtaining a new prescription or refill from a physician, to provide for one early refill of a prescription for topical ophthalmic products if all of the following criteria are met:

(1) The refill is requested by a patient at or after seventy percent of the predicted days of use of:

(a) The date the original prescription was dispensed to the patient; or

(b) The date that the last refill of the prescription was dispensed to the patient;

(2) The prescriber indicates on the original prescription that a specific number of refills will be needed; and

(3) The refill does not exceed the number of refills that the prescriber indicated under subsection (2) of this section.

[2015 c 85 § 1.]

18.64.540

Provision of drugs to ambulance or aid services associated with providing emergency medical services to patients.

A pharmacy that is licensed under this chapter and operated by a hospital that is licensed under chapter 70.41 RCW may provide drugs to ambulance or aid services that are licensed under RCW 18.73.130 for use associated with providing emergency medical services to patients if the following conditions are met:

(1) The hospital is located in the same or an adjacent county to the county in which the ambulance or aid service operates;

(2) A medical program director of an ambulance or aid service has requested drugs from the hospital per agreed protocol. A medical program director may only request drugs that:

(a) Are relevant to the level of service provided by the ambulance or aid service and the training of its emergency medical personnel; and

(b) Are approved as part of the ambulance or aid service prehospital patient care protocols for use by emergency medical personnel in the county in which the ambulance or aid service is located; and

(3) The provision of the drugs by the pharmacy is not contingent upon arrangements for the transport of patients to the hospital that operates the pharmacy for reasons other than the consideration of patients' medical needs and any patient care procedures.

[2015 c 255 § 1.]

18.64.900

Severability—1923 c 180.

Should any section or parts of sections of this act be declared unconstitutional it shall in no case affect the validity of other provisions of this act.

[1923 c 180 § 12.]

18.64.910

Severability—1935 c 98.

If any section, sentence, clause or part of this act shall be adjudged to be invalid, such adjudication shall not affect the remaining portions of the act.

[1935 c 98 § 12.]

18.64.911

Severability—1963 c 38.

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

[1963 c 38 § 24.]

18.64.920

Repealer—1935 c 98.

All acts and parts of acts in conflict herewith are hereby repealed.

[1935 c 98 § 11.]

Chapter 18.64A RCW

PHARMACY ASSISTANTS

Sections

18.64A.010	Definitions.
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18.64A.040	Limitations on practice.
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18.64A.070	Persons presently acting as technicians—Pharmacies presently employing those persons.
18.64A.080	Pharmacy's or pharmacist's liability, responsibility.
18.64A.900	Severability—1977 ex.s. c 101.

NOTES:

Health professions account—Fees credited—Requirements for biennial budget request—Unappropriated funds: RCW 43.70.320.

18.64A.010

Definitions.

Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

(1) "Commission" means the pharmacy quality assurance commission;

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

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

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

(5) "Pharmacy ancillary personnel" means pharmacy technicians and pharmacy assistants;

(6) "Pharmacy technician" means:

(a) A person who is enrolled in, or who has satisfactorily completed, a commission-approved training program designed to prepare persons to perform nondiscretionary functions associated with the practice of pharmacy; or

(b) A person who is a graduate with a degree in pharmacy or medicine of a foreign school, university, or college recognized by the commission;

(7) "Pharmacy assistant" means a person registered by the commission to perform limited functions in the pharmacy;

(8) "Practice of pharmacy" means the definition given in RCW 18.64.011;

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

[2013 c 19 § 32; 1997 c 417 § 1; 1989 1st ex.s. c 9 § 422; 1977 ex.s. c 101 § 1.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64A.020

Rules—Qualifications and training programs.

(1)(a) The commission shall adopt, in accordance with chapter 34.05 RCW, rules fixing the classification and qualifications and the educational and training requirements for persons who may be employed as pharmacy technicians or who may be enrolled in any pharmacy technician training program. Such rules shall provide that:

(i) Licensed pharmacists shall supervise the training of pharmacy technicians;

(ii) Training programs shall assure the competence of pharmacy technicians to aid and assist pharmacy operations. Training programs shall consist of instruction and/or practical training; and

(iii) Pharmacy technicians shall complete continuing education requirements established in rule by the commission.

(b) Such rules may include successful completion of examinations for applicants for pharmacy technician certificates. If such examination rules are adopted, the commission shall prepare or determine the nature of, and supervise the grading of the examinations. The commission may approve an examination prepared or administered by a private testing agency or association of licensing authorities.

(2) The commission may disapprove or revoke approval of any training program for failure to conform to commission rules. In the case of the disapproval or revocation of approval of a training program by the commission, a hearing shall be conducted in accordance with RCW 18.64.160, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

[2013 c 19 § 33; 2011 c 71 § 1; 1997 c 417 § 2; 1995 c 198 § 8; 1977 ex.s. c 101 § 2.]

18.64A.025

Qualifications—Military training and experience.

An applicant with military training or experience satisfies the training and experience requirements of this chapter unless the commission determines that the military training or experience is not substantially equivalent to the standards of this state.

[2013 c 19 § 34; 2011 c 32 § 5.]

18.64A.030

Rules—Duties of technicians, assistants.

The commission shall adopt, in accordance with chapter 34.05 RCW, rules governing the extent to which pharmacy ancillary personnel may perform services associated with the practice of pharmacy. These rules shall provide for the certification of pharmacy technicians by the department at a fee determined by the secretary under RCW 43.70.250:

(1) "Pharmacy technicians" may assist in performing, under the supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy and other such duties and subject to such restrictions as the commission may by rule adopt.

(2) "Pharmacy assistants" may perform, under the supervision of a licensed pharmacist, duties including but not limited to, typing of prescription labels, filing, refiling, bookkeeping, pricing, stocking, delivery, nonprofessional phone inquiries, and documentation of third party reimbursements and other such duties and subject to such restrictions as the commission may by rule adopt.

[2013 c 19 § 35; 1997 c 417 § 3; 1996 c 191 § 50; 1989 1st ex.s. c 9 § 423; 1977 ex.s. c 101 § 3.]

NOTES:

Chapter 18.64A RCW

PHARMACY ASSISTANTS

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64A.040

Limitations on practice.

(1) Pharmacy ancillary personnel shall practice pharmacy in this state only after authorization by the commission and only to the extent permitted by the commission in accordance with this chapter.

(2) A pharmacist shall be assisted by pharmacy ancillary personnel in the practice of pharmacy in this state only after authorization by the commission and only to the extent permitted by the commission in accordance with this chapter: PROVIDED, That no pharmacist may supervise more than one pharmacy technician: PROVIDED FURTHER, That in pharmacies operating in connection with facilities licensed pursuant to chapter 70.41, 71.12, 71A.20, or 74.42 RCW, whether or not situated within the said facility which shall be physically separated from any area of a pharmacy where dispensing of prescriptions to the general public occurs, the ratio of pharmacists to pharmacy technicians shall be as follows: In the preparation of medicine or other materials used by patients within the facility, one pharmacist supervising no more than three pharmacy technicians; in the preparation of medicine or other materials dispensed to persons not patients within the facility, one pharmacist supervising not more than one pharmacy technician.

(3) The commission may by rule modify the standard ratios set out in subsection (2) of this section governing the utilization of pharmacy technicians by pharmacies and pharmacists. Should a pharmacy desire to use more pharmacy technicians than the standard ratios, the pharmacy must submit to the commission a pharmacy services plan for approval.

(a) The pharmacy services plan shall include, at a minimum, the following information: Pharmacy design and equipment, information systems, workflow, and quality assurance procedures. In addition, the pharmacy services plan shall demonstrate how it facilitates the provision of pharmaceutical care by the pharmacy.

(b) Prior to approval of a pharmacy services plan, the commission may require additional information to ensure appropriate oversight of pharmacy ancillary personnel.

(c) The commission may give conditional approval for pilot or demonstration projects.

(d) Variance from the approved pharmacy services plan is grounds for disciplinary action under RCW 18.64A.050.

[2013 c 19 § 36; 1997 c 417 § 4; 1992 c 40 § 1; 1977 ex.s. c 101 § 4.]

18.64A.050

Disciplinary action against certificate—Grounds.

In addition to the grounds under RCW 18.130.170 and 18.130.180, the commission may take disciplinary action against the certificate of any pharmacy technician upon proof that:

(1) His or her certificate was procured through fraud, misrepresentation or deceit;

(2) He or she has been found guilty of any offense in violation of the laws of this state relating to drugs, poisons, cosmetics or drug sundries by any court of competent jurisdiction. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she has exhibited gross incompetency in the performance of his or her duties;

(4) He or she has willfully or repeatedly violated any of the rules and regulations of the commission or of the department;

(5) He or she has willfully or repeatedly performed duties beyond the scope of his or her certificate in violation of the provisions of this chapter; or

(6) He or she has impersonated a licensed pharmacist.

[2013 c 19 § 37; 1997 c 417 § 5; 1993 c 367 § 15; 1989 1st ex.s. c 9 § 424; 1977 ex.s. c 101 § 5.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Violation of chapter 69.50 RCW, the Uniform Controlled Substances Act—Suspension of license: RCW 69.50.413.

18.64A.055

Uniform Disciplinary Act.

The Uniform Disciplinary Act, chapter 18.130 RCW, governs the issuance and denial of certificates and the discipline of certificants under this chapter.

[1993 c 367 § 16.]

18.64A.060

Pharmacy's application for ancillary personnel—Fee—Approval or rejection by commission—Hearing—Appeal.

No pharmacy licensed in this state shall utilize the services of pharmacy ancillary personnel without approval of the commission.

Any pharmacy licensed in this state may apply to the commission for permission to use the services of pharmacy ancillary personnel. The application shall be accompanied by a fee and shall comply with administrative procedures and administrative requirements set pursuant to RCW 43.70.250 and 43.70.280, shall detail the manner and extent to which the pharmacy ancillary personnel would be used and supervised, and shall provide other information in such form as the secretary may require.

The commission may approve or reject such applications. In addition, the commission may modify the proposed utilization of pharmacy ancillary personnel and approve the application as modified. Whenever it appears to the commission that pharmacy ancillary personnel are being utilized in a manner inconsistent with the approval granted, the commission may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of approval, a hearing shall be conducted in accordance with chapter 18.64 RCW, as now or hereafter amended, and appeal may be taken in accordance with the administrative procedure act, chapter 34.05 RCW.

[2013 c 19 § 38; 1997 c 417 § 6; 1996 c 191 § 51; 1989 1st ex.s. c 9 § 425; 1977 ex.s. c 101 § 6.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.64A.070

Persons presently acting as technicians—Pharmacies presently employing those persons.

Chapter 18.64A RCW

PHARMACY ASSISTANTS

(1) Persons presently assisting a pharmacist by performing the functions of a pharmacy technician may continue to do so under the supervision of a licensed pharmacist: PROVIDED, That within eighteen months after May 28, 1977, such persons shall be in compliance with the provisions of this chapter.

(2) Pharmacies presently employing persons to perform the functions of a pharmacy technician may continue to do so while obtaining commission approval for the use of certified pharmacy technicians: PROVIDED, That within eighteen months after May 28, 1977, such pharmacies shall be in compliance with the provisions of this chapter.

[2013 c 19 § 39; 1997 c 417 § 7; 1977 ex.s. c 101 § 7.]

18.64A.080

Pharmacy's or pharmacist's liability, responsibility.

A pharmacy or pharmacist which utilizes the services of pharmacy ancillary personnel with approval by the commission, is not aiding and abetting an unlicensed person to practice pharmacy within the meaning of chapter 18.64 RCW: PROVIDED, HOWEVER, That the pharmacy or pharmacist shall retain responsibility for any act performed by pharmacy ancillary personnel in the course of employment.

[2013 c 19 § 40; 1997 c 417 § 8; 1977 ex.s. c 101 § 8.]

18.64A.900

Severability—1977 ex.s. c 101.

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

[1977 ex.s. c 101 § 10.]

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

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NOTES:

AIDS education and training: Chapter 70.24 RCW.

18.130.010

Intent.

It is the intent of the legislature to strengthen and consolidate disciplinary and licensure procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the licensure of health care professionals and the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts.

It is also the intent of the legislature that all health and health-related professions newly credentialed by the state come under the Uniform Disciplinary Act.

Further, the legislature declares that the addition of public members on all health care commissions and boards can give both the state and the public, which it has a statutory responsibility to protect, assurances of accountability and confidence in the various practices of health care.

[1994 sp.s. c 9 § 601; 1991 c 332 § 1; 1986 c 259 § 1; 1984 c 279 § 1.]

NOTES:

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Application to scope of practice—1991 c 332: "Nothing in sections 1 through 39 of this act is intended to change the scope of practice of any health care profession referred to in sections 1 through 39 of this act." [1991 c 332 § 46.]

Captions not law—1991 c 332: "Section captions and part headings as used in this act constitute no part of the law." [1991 c 332 § 43.]

Severability—1986 c 259: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 259 § 152.]

18.130.020

Definitions.

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

(1) "Board" means any of those boards specified in RCW 18.130.040.

(2) "Clinical expertise" means the proficiency or judgment that a license holder in a particular profession acquires through clinical experience or clinical practice and that is not possessed by a lay person.

(3) "Commission" means any of the commissions specified in RCW 18.130.040.

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

(5) "Disciplinary action" means sanctions identified in RCW 18.130.160.

(6) "Disciplining authority" means the agency, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.130.040.

(7) "Health agency" means city and county health departments and the department of health.

(8) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020.

(9) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, or an assessment of the conditions, circumstances, and methods of the professional's practice related to the complaint, to determine whether unprofessional conduct may have been committed.

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

(11) "Standards of practice" means the care, skill, and learning associated with the practice of a profession.

(12) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

[2008 c 134 § 2; 1995 c 336 § 1; 1994 sp.s. c 9 § 602; 1989 1st ex.s. c 9 § 312; 1986 c 259 § 2; 1984 c 279 § 2.]

NOTES:

Alphabetization—2008 c 134 § 2: "The code reviser is directed to put the defined terms in RCW 18.130.020 in alphabetical order." [2008 c 134 § 39.]

Finding—Intent—2008 c 134: "From statehood, Washington has constitutionally provided for the regulation of the practice of medicine and the sale of drugs and medicines. This constitutional recognition of the importance of regulating health care practitioners derives not from providers' financial interest in their license, but from the greater need to protect the public health and safety by assuring that the health care providers and medicines that society relies upon meet certain standards of quality.

The legislature finds that the issuance of a license to practice as a health care provider should be a means to promote quality and not be a means to provide financial benefit for providers. Statutory and administrative requirements provide sufficient due process protections to prevent the unwarranted revocation of a health care provider's license. While those due process protections must be maintained, there is an urgent need to return to the original constitutional mandate that patients be ensured quality from their health care providers. The legislature has recognized and medical malpractice reforms have recognized the importance of quality and patient safety through such measures as a new adverse events reporting system. Reforms to the health care provider licensing system is another step toward improving quality in health care. Therefore, the legislature intends to increase the authority of those engaged in the regulation of health care providers to swiftly identify and remove health care providers who pose a risk to the public." [2008 c 134 § 1.]

Severability—2008 c 134: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 134 § 38.]

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.035

Background check activities—Fees.

In accordance with RCW 43.135.055, to implement the background check activities conducted pursuant to RCW 18.130.064, the department may establish fees as necessary to recover the cost of these activities and, except as precluded by RCW 43.70.110, the department shall require applicants to submit the required fees along with other information required by the state patrol.

[2008 c 285 § 12.]

NOTES:

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.130.037

Application and renewal fees.

In accordance with RCW 43.135.055, the department may annually increase application and renewal fees as necessary to recover the cost of implementing the administrative and disciplinary provisions of chapter 134, Laws of 2008.

[2008 c 285 § 13.]

NOTES:

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.130.039

Licensee not required to participate in third-party reimbursement program.

No licensee subject to this chapter may be required to participate in any public or private third-party reimbursement program or any plans or products offered by a payor as a condition of licensure.

[2013 c 293 § 5.]

18.130.040

Application to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (*Effective until July 1, 2016.*)

(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 practitioners and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian 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 agency affiliated counselors registered 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) Health care assistants certified under chapter 18.135 RCW;

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

(xv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

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

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

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

(xix) Surgical technologists registered under chapter 18.215 RCW;

(xx) Recreational therapists under chapter 18.230 RCW;

(xxi) Animal massage practitioners certified under chapter 18.240 RCW;

(xxii) Athletic trainers licensed under chapter 18.250 RCW;

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

(xxiv) Genetic counselors licensed under chapter 18.290 RCW;

(xxv) Reflexologists certified under chapter 18.108 RCW; and

(xxvi) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 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 chapters 18.57 and 18.57A 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 medical quality assurance 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; 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. [2013 c 171 § 7; 2013 c 19 § 44. Prior: 2012 c 208 § 10; 2012 c 153 § 16; 2012 c 137 § 19; 2012 c 23 § 6; 2011 c 41 § 11; prior: 2010 c 286 § 18; (2010 c 286 § 17 expired August 1, 2010); (2010 c 286 § 16 expired July 1, 2010); 2010 c 65 § 3; (2010 c 65 § 2 expired August 1, 2010); (2010 c 65 § 1 expired July 1, 2010); prior: 2009 c 302 § 14; 2009 c 301 § 8; 2009 c 52 § 2; 2009 c 52 § 1; 2009 c 2 § 16 (Initiative Measure No. 1029, approved November 4, 2008); 2008 c 134 § 18; (2008 c 134 § 17 expired July 1, 2008); prior: 2007 c 269 § 17; 2007 c 253 § 13; 2007 c 70 § 11; 2004 c 38 § 2; prior: 2003 c 275 § 2; 2003 c 258 § 7; prior: 2002 c 223 § 6; 2002 c 216 § 11; 2001 c 251 § 27; 1999 c 335 § 10; 1998 c 243 § 16; prior: 1997 c 392 § 516; 1997 c 334 § 14; 1997 c 285 § 13; 1997 c 275 § 2; prior: 1996 c 200 § 32; 1996 c 81 § 5; prior: 1995 c 336 § 2; 1995 c 323 § 16; 1995 c 260 § 11; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994); prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 44 and by 2013 c 171 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—2013 c 171 § 7: "Section 7 of this act expires July 1, 2016." [2013 c 171 § 9.]

Expiration date—2013 c 19 § 44: "Section 44 of this act expires July 1, 2016." [2013 c 19 § 128.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Effective date—2012 c 153 §§ 1-12, 14, 16, and 18: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2010 c 286 § 18: "Section 18 of this act takes effect August 1, 2010." [2010 c 286 § 22.]

Expiration date—2010 c 286 § 17: "Section 17 of this act expires August 1, 2010." [2010 c 286 § 21.]

Effective date—2010 c 286 § 17: "Section 17 of this act takes effect July 1, 2010." [2010 c 286 § 20.]

Expiration date—2010 c 286 § 16: "Section 16 of this act expires July 1, 2010." [2010 c 286 § 19.]

Intent—2010 c 286: See RCW 18.06.005.

Effective date—2010 c 65 § 3: "Section 3 of this act takes effect August 1, 2010." [2010 c 65 § 9.]

Expiration date—2010 c 65 § 2: "Section 2 of this act expires August 1, 2010." [2010 c 65 § 8.]

Effective date—2010 c 65 § 2: "Section 2 of this act takes effect July 1, 2010." [2010 c 65 § 7.]

Expiration date—2010 c 65 § 1: "Section 1 of this act expires July 1, 2010." [2010 c 65 § 6.]

Effective date—Implementation—2009 c 302: See RCW 18.290.900 and 18.290.901.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

Effective date—2009 c 52 § 1: "Section 1 of 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, 2009." [2009 c 52 § 3.]

Effective date—2009 c 52 § 2: "Section 2 of this act takes effect July 1, 2010." [2009 c 52 § 4.]

Contingent effective date—2009 c 2 (Initiative Measure No. 1029) § 16: "Section 16 of this act takes effect if section 18, chapter 134, Laws of 2008 is signed into law by April 6, 2008." [2009 c 2 § 24 (Initiative Measure No. 1029, approved November 4, 2008).]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

Effective date—2008 c 134 § 18: "Section 18 of this act takes effect July 1, 2008." [2008 c 134 § 37.]

Expiration date—2008 c 134 § 17: "Section 17 of this act expires July 1, 2008." [2008 c 134 § 36.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

Severability—Effective date—Implementation—2007 c 253: See RCW 18.250.900 through 18.250.902.

Effective date—2004 c 38: See note following RCW 18.155.075.

Effective date—2003 c 275 § 2: "Section 2 of 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, 2003." [2003 c 275 § 4.]

Severability—Effective date—2003 c 258: See notes following RCW 18.79.330.

Severability—Effective date—2002 c 216: See RCW 18.230.900 and 18.230.901.

Severability—2001 c 251: See RCW 18.225.900.

Effective dates—1998 c 243: See RCW 18.205.900.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Effective dates—1997 c 334: See note following RCW 18.89.010.

Intent—Purpose—1997 c 285: See RCW 18.200.005.

Severability—1997 c 285: See RCW 18.200.901.

Severability—1996 c 200: See RCW 18.35.902.

Effective date—1996 c 81: See note following RCW 70.128.120.

Effective date—1995 c 336 §§ 2 and 3: "Sections 2 and 3 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 shall take effect immediately [May 11, 1995]." [1995 c 336 § 11.]

Effective date—1995 c 260 §§ 7-11: "Sections 7 through 11 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 18 § 116; 1995 c 260 § 12.]

Short title—Severability—1995 c 1 (Initiative Measure No. 607): See RCW 18.30.900 and 18.30.901.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability—1987 c 512: See RCW 18.19.901.

Severability—1987 c 447: See RCW 18.36A.901.

Severability—1987 c 415: See RCW 18.89.901.

Effective date—Severability—1987 c 412: See RCW 18.84.901 and 18.84.902.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.040

Application to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (*Effective July 1, 2016, until July 1, 2017.*)

(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 practitioners and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian 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 agency affiliated counselors registered 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) Chemical dependency professionals and chemical dependency professional trainees 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 practitioners 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; and

(xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 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 chapters 18.57 and 18.57A 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 medical quality assurance 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; 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. [2013 c 171 § 8; 2013 c 19 § 45. Prior: 2012 c 208 § 10; 2012 c 153 § 17; 2012 c 153 § 16; 2012 c 137 § 19; 2012 c 23 § 6; 2011 c 41 § 11; prior: 2010 c 286 § 18; (2010 c 286 § 17 expired August 1, 2010); (2010 c 286 § 16 expired July 1, 2010); 2010 c 65 § 3; (2010 c 65 § 2 expired August 1, 2010); (2010 c 65 § 1 expired July 1, 2010); prior: 2009 c 302 § 14; 2009 c 301 § 8; 2009 c 52 § 2; 2009 c 52 § 1; 2009 c 2 § 16 (Initiative Measure No. 1029, approved November 4, 2008); 2008 c 134 § 18; (2008 c 134 § 17 expired July 1, 2008); prior: 2007 c 269 § 17; 2007 c 253 § 13; 2007 c 70 § 11; 2004 c 38 § 2; prior: 2003 c 275 § 2; 2003 c 258 § 7; prior: 2002 c 223 § 6; 2002 c 216 § 11; 2001 c 251 § 27; 1999 c 335 § 10; 1998 c 243 § 16; prior: 1997 c 392 § 516; 1997 c 334 § 14; 1997 c 285 § 13; 1997 c 275 § 2; prior: 1996 c 200 § 32; 1996 c 81 § 5; prior: 1995 c 336 § 2; 1995 c 323 § 16; 1995 c 260 § 11; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994); prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 45 and by 2013 c 171 § 8, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2013 c 171 § 8: "Section 8 of this act takes effect July 1, 2016." [2013 c 171 § 10.]

Effective date—2013 c 19 § 45: "Section 45 of this act takes effect July 1, 2016." [2013 c 19 § 129.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Effective date—2012 c 153 §§ 15 and 17: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2010 c 286 § 18: "Section 18 of this act takes effect August 1, 2010." [2010 c 286 § 22.]

Expiration date—2010 c 286 § 17: "Section 17 of this act expires August 1, 2010." [2010 c 286 § 21.]

Effective date—2010 c 286 § 17: "Section 17 of this act takes effect July 1, 2010." [2010 c 286 § 20.]

Expiration date—2010 c 286 § 16: "Section 16 of this act expires July 1, 2010." [2010 c 286 § 19.]

Intent—2010 c 286: See RCW 18.06.005.

Effective date—2010 c 65 § 3: "Section 3 of this act takes effect August 1, 2010." [2010 c 65 § 9.]

Expiration date—2010 c 65 § 2: "Section 2 of this act expires August 1, 2010." [2010 c 65 § 8.]

Effective date—2010 c 65 § 2: "Section 2 of this act takes effect July 1, 2010." [2010 c 65 § 7.]

Expiration date—2010 c 65 § 1: "Section 1 of this act expires July 1, 2010." [2010 c 65 § 6.]

Effective date—Implementation—2009 c 302: See RCW 18.290.900 and 18.290.901.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Effective date—2009 c 52 § 1: "Section 1 of 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, 2009." [2009 c 52 § 3.]

Effective date—2009 c 52 § 2: "Section 2 of this act takes effect July 1, 2010." [2009 c 52 § 4.]

Contingent effective date—2009 c 2 (Initiative Measure No. 1029) § 16: "Section 16 of this act takes effect if section 18, chapter 134, Laws of 2008 is signed into law by April 6, 2008." [2009 c 2 § 24 (Initiative Measure No. 1029, approved November 4, 2008).]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

Effective date—2008 c 134 § 18: "Section 18 of this act takes effect July 1, 2008." [2008 c 134 § 37.]

Expiration date—2008 c 134 § 17: "Section 17 of this act expires July 1, 2008." [2008 c 134 § 36.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

Severability—Effective date—Implementation—2007 c 253: See RCW 18.250.900 through 18.250.902.

Effective date—2004 c 38: See note following RCW 18.155.075.

Effective date—2003 c 275 § 2: "Section 2 of 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, 2003." [2003 c 275 § 4.]

Severability—Effective date—2003 c 258: See notes following RCW 18.79.330.

Severability—Effective date—2002 c 216: See RCW 18.230.900 and 18.230.901.

Severability—2001 c 251: See RCW 18.225.900.

Effective dates—1998 c 243: See RCW 18.205.900.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Effective dates—1997 c 334: See note following RCW 18.89.010.

Intent—Purpose—1997 c 285: See RCW 18.200.005.

Severability—1997 c 285: See RCW 18.200.901.

Severability—1996 c 200: See RCW 18.35.902.

Effective date—1996 c 81: See note following RCW 70.128.120.

Effective date—1995 c 336 §§ 2 and 3: "Sections 2 and 3 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 shall take effect immediately [May 11, 1995]." [1995 c 336 § 11.]

Effective date—1995 c 260 §§ 7-11: "Sections 7 through 11 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 18 § 116; 1995 c 260 § 12.]

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

Short title—Severability—1995 c 1 (Initiative Measure No. 607): See RCW 18.30.900 and 18.30.901.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability—1987 c 512: See RCW 18.19.901.

Severability—1987 c 447: See RCW 18.36A.901.

Severability—1987 c 415: See RCW 18.89.901.

Effective date—Severability—1987 c 412: See RCW 18.84.901 and 18.84.902.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.040

Application to certain professions—Authority of secretary—Grant or denial of licenses—Procedural rules. (*Effective July 1, 2017.*)

(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 practitioners and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian 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 agency affiliated counselors registered 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) Chemical dependency professionals and chemical dependency professional trainees 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 practitioners 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, 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 chapters 18.57 and 18.57A 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 medical quality assurance 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; 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. [2015 c 118 § 13. Prior: 2013 c 171 § 8; 2013 c 19 § 45; prior: 2012 c 208 § 10; 2012 c 153 § 17; 2012 c 153 § 16; 2012 c 137 § 19; 2012 c 23 § 6; 2011 c 41 § 11; prior: 2010 c 286 § 18; (2010 c 286 § 17 expired August 1, 2010); (2010 c 286 § 16 expired July 1, 2010); 2010 c 65 § 3; (2010 c 65 § 2 expired August 1, 2010); (2010 c 65 § 1 expired July 1, 2010); prior: 2009 c 302 § 14; 2009 c 301 § 8; 2009 c 52 § 2; 2009 c 52 § 1; 2009 c 2 § 16 (Initiative Measure No. 1029, approved November 4, 2008); 2008 c 134 § 18; (2008 c 134 § 17 expired July 1, 2008); prior: 2007 c 269 § 17; 2007 c 253 § 13; 2007 c 70 § 11; 2004 c 38 § 2; prior: 2003 c 275 § 2; 2003 c 258 § 7; prior: 2002 c 223 § 6; 2002 c 216 § 11; 2001 c 251 § 27; 1999 c 335 § 10; 1998 c 243 § 16; prior: 1997 c 392 § 516; 1997 c 334 § 14; 1997 c 285 § 13; 1997 c 275 § 2; prior: 1996 c 200 § 32; 1996 c 81 § 5; prior: 1995 c 336 § 2; 1995 c 323 § 16; 1995 c 260 § 11; 1995 c 1 § 19 (Initiative Measure No. 607, approved November 8, 1994); prior: 1994 sp.s. c 9 § 603; 1994 c 17 § 19; 1993 c 367 § 4; 1992 c 128 § 6; 1990 c 3 § 810; prior: 1988 c 277 § 13; 1988 c 267 § 22; 1988 c 243 § 7; prior: 1987 c 512 § 22; 1987 c 447 § 18; 1987 c 415 § 17; 1987 c 412 § 15; 1987 c 150 § 1; prior: 1986 c 259 § 3; 1985 c 326 § 29; 1984 c 279 § 4.]

NOTES:

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

Effective date—2015 c 118: See note following RCW 18.380.010.

Rules—2015 c 118: See note following RCW 18.380.110.

Effective date—2013 c 171 § 8: "Section 8 of this act takes effect July 1, 2016." [2013 c 171 § 10.]

Effective date—2013 c 19 § 45: "Section 45 of this act takes effect July 1, 2016." [2013 c 19 § 129.]

Effective date—2012 c 208 §§ 2-10: See note following RCW 18.88A.020.

Findings—Rules—2012 c 208: See notes following RCW 18.88A.082.

Effective date—2012 c 153 §§ 15 and 17: See note following RCW 18.360.005.

Rules—2012 c 153: See note following RCW 18.360.005.

Finding—Purpose—Rules—Effective date—2012 c 137: See notes following RCW 18.108.005.

Effective date—2010 c 286 § 18: "Section 18 of this act takes effect August 1, 2010." [2010 c 286 § 22.]

Expiration date—2010 c 286 § 17: "Section 17 of this act expires August 1, 2010." [2010 c 286 § 21.]

Effective date—2010 c 286 § 17: "Section 17 of this act takes effect July 1, 2010." [2010 c 286 § 20.]

Expiration date—2010 c 286 § 16: "Section 16 of this act expires July 1, 2010." [2010 c 286 § 19.]

Intent—2010 c 286: See RCW 18.06.005.

Effective date—2010 c 65 § 3: "Section 3 of this act takes effect August 1, 2010." [2010 c 65 § 9.]

Expiration date—2010 c 65 § 2: "Section 2 of this act expires August 1, 2010." [2010 c 65 § 8.]

Effective date—2010 c 65 § 2: "Section 2 of this act takes effect July 1, 2010." [2010 c 65 § 7.]

Expiration date—2010 c 65 § 1: "Section 1 of this act expires July 1, 2010." [2010 c 65 § 6.]

Effective date—Implementation—2009 c 302: See RCW 18.290.900 and 18.290.901.

Intent—Implementation—2009 c 301: See notes following RCW 18.35.010.

Speech-language pathology assistants—Certification requirements—2009 c 301: See note following RCW 18.35.040.

Effective date—2009 c 52 § 1: "Section 1 of 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, 2009." [2009 c 52 § 3.]

Effective date—2009 c 52 § 2: "Section 2 of this act takes effect July 1, 2010." [2009 c 52 § 4.]

Contingent effective date—2009 c 2 (Initiative Measure No. 1029) § 16: "Section 16 of this act takes effect if section 18, chapter 134, Laws of 2008 is signed into law by April 6, 2008." [2009 c 2 § 24 (Initiative Measure No. 1029, approved November 4, 2008).]

Intent—Findings—Construction—Short title—2009 c 2 (Initiative Measure No. 1029): See notes following RCW 18.88B.050.

Effective date—2008 c 134 § 18: "Section 18 of this act takes effect July 1, 2008." [2008 c 134 § 37.]

Expiration date—2008 c 134 § 17: "Section 17 of this act expires July 1, 2008." [2008 c 134 § 36.]

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Application—Implementation—2007 c 269: See RCW 18.260.900 and 18.260.901.

Severability—Effective date—Implementation—2007 c 253: See RCW 18.250.900 through 18.250.902.

Effective date—2004 c 38: See note following RCW 18.155.075.

Effective date—2003 c 275 § 2: "Section 2 of 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, 2003." [2003 c 275 § 4.]

Severability—Effective date—2003 c 258: See notes following RCW 18.79.330.

Severability—Effective date—2002 c 216: See RCW 18.230.900 and 18.230.901.

Severability—2001 c 251: See RCW 18.225.900.

Effective dates—1998 c 243: See RCW 18.205.900.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Effective dates—1997 c 334: See note following RCW 18.89.010.

Intent—Purpose—1997 c 285: See RCW 18.200.005.

Severability—1997 c 285: See RCW 18.200.901.

Severability—1996 c 200: See RCW 18.35.902.

Effective date—1996 c 81: See note following RCW 70.128.120.

Effective date—1995 c 336 §§ 2 and 3: "Sections 2 and 3 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 shall take effect immediately [May 11, 1995]." [1995 c 336 § 11.]

Effective date—1995 c 260 §§ 7-11: "Sections 7 through 11 of this act shall take effect July 1, 1996." [1995 1st sp.s. c 18 § 116; 1995 c 260 § 12.]

Short title—Severability—1995 c 1 (Initiative Measure No. 607): See RCW 18.30.900 and 18.30.901.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Severability—1987 c 512: See RCW 18.19.901.

Severability—1987 c 447: See RCW 18.36A.901.

Severability—1987 c 415: See RCW 18.89.901.

Effective date—Severability—1987 c 412: See RCW 18.84.901 and 18.84.902.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.045

Massage practitioners—Procedures governing convicted prostitutes.

RCW 18.108.085 shall govern the issuance and revocation of licenses issued or applied for under chapter 18.108 RCW to or by persons convicted of violating RCW 9A.88.030, 9A.88.070, 9A.88.080, or 9A.88.090 or equivalent local ordinances.

[1995 c 353 § 3.]

18.130.050

Authority of disciplining authority.

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:

(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).

[2013 c 109 § 1; 2013 c 86 § 2; 2008 c 134 § 3; 2006 c 99 § 4; 1995 c 336 § 4. Prior: 1993 c 367 § 21; 1993 c 367 § 5; 1987 c 150 § 2; 1984 c 279 § 5.]

NOTES:

Reviser's note: This section was amended by 2013 c 86 § 2 and by 2013 c 109 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2013 c 86: See note following RCW 18.130.400.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Severability—1987 c 150: See RCW 18.122.901.

18.130.055

Authority of disciplining authority—Denial of applications.

(1) The disciplining authority may deny an application for licensure or grant a license with conditions if the applicant:

(a) Has had his or her license to practice any health care profession suspended, revoked, or restricted, by competent authority in any state, federal, or foreign jurisdiction;

(b) Has committed any act defined as unprofessional conduct for a license holder under RCW 18.130.180;

(c) Has been convicted or is subject to current prosecution or pending charges of a crime involving moral turpitude or a crime identified in RCW 43.43.830. For purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the prosecution or sentence has been deferred or suspended. At the request of an applicant for an original license whose conviction is under appeal, the disciplining authority may defer decision upon the application during the pendency of such a prosecution or appeal;

(d) Fails to prove that he or she is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), or the rules adopted by the disciplining authority; or

(e) Is not able to practice with reasonable skill and safety to consumers by reason of any mental or physical condition.

(i) The disciplining authority may require the applicant, at his or her own expense, to submit to a mental, physical, or psychological examination by one or more licensed health professionals designated by the disciplining authority. The disciplining authority shall provide written notice of its requirement for a mental or physical examination that includes a statement of the specific conduct, event, or circumstances justifying an examination and a statement of the nature, purpose, scope, and content of the intended examination. If the

applicant fails to submit to the examination or provide the results of the examination or any required waivers, the disciplining authority may deny the application.

(ii) An applicant governed by this chapter is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the disciplining authority on the grounds that the testimony or reports constitute privileged communications.

(2) The provisions of RCW 9.95.240 and chapter 9.96A RCW do not apply to a decision to deny a license under this section.

(3) The disciplining authority shall give written notice to the applicant of the decision to deny a license or grant a license with conditions in response to an application for a license. The notice must state the grounds and factual basis for the action and be served upon the applicant.

(4) A license applicant who is aggrieved by the decision to deny the license or grant the license with conditions has the right to an adjudicative proceeding. The application for adjudicative proceeding must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, and be served on and received by the department within twenty-eight days of the decision. The license applicant has the burden to establish, by a preponderance of evidence, that the license applicant is qualified in accordance with the provisions of this chapter, the chapters identified in RCW 18.130.040(2), and the rules adopted by the disciplining authority.

[2008 c 134 § 19.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.057

Disciplining authority—Duties—Documents.

(1) A disciplining authority shall provide a person or entity making a complaint or report under RCW 18.130.080 with a reasonable opportunity to supplement or amend the contents of the complaint or report. The license holder must be provided an opportunity to respond to any supplemental or amended complaint or report. The disciplining authority shall promptly respond to inquiries made by the license holder or the person or entity making a complaint or report regarding the status of the complaint or report.

(2)(a) Pursuant to chapter 42.56 RCW, following completion of an investigation or closure of a report or complaint, the disciplining authority shall, upon request, provide the license holder or the person or entity making the complaint or report with a copy of the file relating to the complaint or report, including, but not limited to, any response submitted by the license holder under RCW 18.130.095(1).

(b) The disciplining authority may not disclose documents in the file that:

(i) Contain confidential or privileged information regarding a patient other than the person making the complaint or report; or

(ii) Contain information exempt from public inspection and copying under chapter 42.56 RCW.

(c) The exemptions in (b) of this subsection are inapplicable to the extent that the relevant information can be deleted from the documents in question.

(d) The disciplining authority may impose a reasonable charge for copying the file consistent with the charges allowed for copying public records under RCW 42.56.120.

(3)(a) Prior to any final decision on any disciplinary proceeding before a disciplining authority, the disciplining authority shall provide the person submitting the complaint or report or his or her representative, if any, an opportunity to be heard through an oral or written impact statement about the effect of the person's injury on the person and his or her family and on a recommended sanction.

(b) If the license holder is not present at the disciplinary proceeding, the disciplining authority shall transmit the impact statement to the license holder, who shall certify to the disciplining authority that he or she has received it.

(c) For purposes of this subsection, representatives of the person submitting the complaint or report include his or her family members and such other affected parties as may be designated by the disciplining authority upon request.

(4) A disciplining authority shall inform, in writing, the license holder and person or entity submitting the complaint or report of the final disposition of the complaint or report.

(5)(a) If the disciplining authority closes a complaint or report prior to issuing a statement of charges under RCW 18.130.090 or a statement of allegations under RCW 18.130.172, the person or entity submitting the report may, within thirty days of receiving notice under subsection (4) of this section, request the disciplining authority to reconsider the closure of the complaint or report on the basis of new information relating to the original complaint or report. A request for reconsideration made under this subsection may only be brought in relation to the original complaint and may only be brought one time.

(b) The disciplining authority shall, within thirty days of receiving the request for reconsideration, notify the license holder of the request and the new information providing the basis therefor. The license holder has thirty days to provide a response. The disciplining authority shall notify the person or entity and the license holder in writing of its final decision on the request for reconsideration, including an explanation of the reasoning behind the decision.

[2011 c 157 § 1.]

18.130.060

Additional authority of secretary.

In addition to the authority specified in RCW 18.130.050 and 18.130.062, the secretary has the following additional authority:

(1) To employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter. The secretary must, whenever practical, make primary assignments on a long-term basis to foster the development and maintenance of staff expertise. To ensure continuity and best practices, the secretary will regularly evaluate staff assignments and workload distribution;

(2) Upon the request of a board or commission, to appoint pro tem members to participate as members of a panel of the board or commission in connection with proceedings specifically identified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or commission. Pro tem members appointed for matters under this chapter are appointed for a term of no more than one year. No pro tem member may serve more than four one-year terms. While serving as board or commission members pro tem, persons so appointed have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or commission. The chairperson of a panel shall be a regular member of the board or commission appointed by the board or commission chairperson. Panels have authority to act as directed by the board or commission with respect to all matters subject to the jurisdiction of the board or commission and within the authority of the board or commission. The authority to act through panels does not restrict the authority of the board or commission to act as a single body at any phase of proceedings within the board's or commission's jurisdiction. Board or commission panels may issue final orders and decisions with

respect to matters and cases delegated to the panel by the board or commission. Final decisions may be appealed as provided in chapter 34.05 RCW, the administrative procedure act;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency adjudicative proceeding as authorized by RCW 34.05.446;

(4) To conduct investigations and practice reviews at the direction of the disciplining authority and to issue subpoenas, administer oaths, and take depositions in the course of conducting those investigations and practice reviews at the direction of the disciplining authority;

(5) To have the health professions regulatory program establish a system to recruit potential public members, to review the qualifications of such potential members, and to provide orientation to those public members appointed pursuant to law by the governor or the secretary to the boards and commissions specified in RCW 18.130.040(2)(b), and to the advisory committees and councils for professions specified in RCW 18.130.040(2)(a); and

(6) To adopt rules, in consultation with the disciplining authorities, requiring every license holder to report information identified in RCW 18.130.070.

[2008 c 134 § 4; 2006 c 99 § 1; 2001 c 101 § 1; 1995 c 336 § 5; 1991 c 3 § 269; 1989 c 175 § 68; 1987 c 150 § 3; 1984 c 279 § 6.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1987 c 150: See RCW 18.122.901.

18.130.062

Authority of secretary—Disciplinary process—Sexual misconduct—Victim interview training.

(1) With regard to complaints that only allege that a license holder has committed an act or acts of unprofessional conduct involving sexual misconduct, the secretary shall serve as the sole disciplining authority in every aspect of the disciplinary process, including initiating investigations, investigating, determining the disposition of the complaint, holding hearings, preparing findings of fact, issuing orders or dismissals of charges as provided in RCW 18.130.110, entering into stipulations permitted by RCW 18.130.172, or issuing summary suspensions under RCW 18.130.135. The board or commission shall review all cases and only refer to the secretary sexual misconduct cases that do not involve clinical expertise or standard of care issues.

(2) Beginning July 1, 2016, for all complaints alleging an act or acts of unprofessional conduct involving sexual misconduct, regardless of whether the secretary or a board or commission is the disciplining authority, all victim interviews conducted as part of an investigation must be conducted by a person who has successfully completed a training program on interviewing victims of sexual misconduct in a manner that minimizes the negative impacts on the victims. The training program may be provided by the disciplining authority, the department, or an outside entity. When determining the type of training that is appropriate to comply with this subsection, the disciplining authority shall consult with at least one statewide organization that provides information, training, and expertise to persons and entities who support victims, family and friends, the general public, and other persons whose lives have been affected by sexual assault.

[2015 c 159 § 1; 2008 c 134 § 5.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.064

Authority and duties—Secretary and disciplining authority—Background checks.

(1)(a) The secretary is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with investigation or licensing and investigate the complete criminal history and pending charges of all applicants and license holders.

(b) Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. Disciplining authorities shall restrict the use of background check results in determining the individual's suitability for a license and in conducting disciplinary functions.

(2)(a) The secretary shall establish requirements for each applicant for an initial license to obtain a state background check through the state patrol prior to the issuance of any license. The background check may be fingerprint-based at the discretion of the department.

(b) The secretary shall specify those situations where a background check under (a) of this subsection is inadequate and an applicant for an initial license must obtain an electronic fingerprint-based national background check through the state patrol and federal bureau of investigation. Situations where a background check is inadequate may include instances where an applicant has recently lived out of state or where the applicant has a criminal record in Washington. The secretary shall issue a temporary practice permit to an applicant who must have a national background check conducted if the background check conducted under (a) of this subsection does not reveal a criminal record in Washington, and if the applicant meets the provisions of RCW 18.130.075.

(3) In addition to the background check required in subsection (2) of this section, an investigation may include an examination of state and national criminal identification data. The disciplining authority shall use the information for determining eligibility for licensure or renewal. The disciplining authority may also use the information when determining whether to proceed with an investigation of a report under RCW 18.130.080. For a national criminal history records check, the department shall require fingerprints be submitted to and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.

(4) The secretary shall adopt rules to require license holders to report to the disciplining authority any arrests, convictions, or other determinations or findings by a law enforcement agency occurring after June 12, 2008, for a criminal offense. The report must be made within fourteen days of the conviction.

(5) The secretary shall conduct an annual review of a representative sample of all license holders who have previously obtained a background check through the department. The selection of the license holders to be reviewed must be representative of all categories of license holders and geographic locations.

(6)(a) When deciding whether or not to issue an initial license, the disciplining authority shall consider the results of any background check conducted under subsection (2) of this section that reveals a conviction for any criminal offense that constitutes unprofessional conduct under this chapter or the chapters specified in RCW 18.130.040(2) or a series of arrests that when considered together demonstrate a pattern of behavior that, without investigation, may pose a risk to the safety of the license holder's patients.

(b) If the background check conducted under subsection (2) of this section reveals any information related to unprofessional conduct that has not been previously disclosed to the disciplining authority, the disciplining authority shall take appropriate disciplinary action against the license holder.

(7) The department shall:

(a) Require the applicant or license holder to submit full sets of fingerprints if necessary to complete the background check;

(b) Require the applicant to submit any information required by the state patrol; and

(c) Notify the applicant if their background check reveals a criminal record. Only when the background check reveals a criminal record will an applicant receive a notice. Upon receiving such a notice, the applicant may request and the department shall provide a copy of the record to the extent permitted under RCW 10.97.050, including making accessible to the applicant for their personal use and information any records of arrest, charges, or allegations of criminal conduct or other nonconviction data pursuant to RCW 10.97.050(4).

(8) Criminal justice agencies shall provide the secretary with both conviction and nonconviction information that the secretary requests for investigations under this chapter.

(9) There is established a unit within the department for the purpose of detection, investigation, and prosecution of any act prohibited or declared unlawful under this chapter. The secretary will employ supervisory, legal, and investigative personnel for the unit who must be qualified by training and experience. [2008 c 134 § 7.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.065

Rules, policies, and orders—Secretary's role.

The secretary of health shall review and coordinate all proposed rules, interpretive statements, policy statements, and declaratory orders, as defined in chapter 34.05 RCW, that are proposed for adoption or issuance by any health profession board or commission vested with rule-making authority identified under RCW 18.130.040(2)(b). The secretary shall review the proposed policy statements and declaratory orders against criteria that include the effect of the proposed rule, statement, or order upon existing health care policies and practice of health professionals. Within thirty days of the receipt of a proposed rule, interpretive statement, policy statement, or declaratory order from the originating board or commission, the secretary shall inform the board or commission of the results of the review, and shall provide any comments or suggestions that the secretary deems appropriate. Emergency rule making is not subject to this review process. The secretary is authorized to adopt rules and procedures for the coordination and review under this section. [1995 c 198 § 26.]

18.130.070

Rules requiring reports—Court orders—Immunity from liability—Licensees required to report.

(1)(a) The secretary shall adopt rules requiring every license holder to report to the appropriate disciplining authority any conviction, determination, or finding that another license holder has committed an act which constitutes unprofessional conduct, or to report information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the other license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(b) The secretary may adopt rules to require other persons, including corporations, organizations, health care facilities, impaired practitioner programs, or voluntary substance abuse monitoring programs approved by a disciplining authority, and state or local government agencies to report:

(i) Any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct; or

(ii) Information to the disciplining authority, an impaired practitioner program, or voluntary substance abuse monitoring program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(c) If a report has been made by a hospital to the department pursuant to RCW 70.41.210 or by an ambulatory surgical facility pursuant to RCW 70.230.110, a report to the disciplining authority is not required. To facilitate meeting the intent of this section, the cooperation of agencies of the federal government is requested by reporting any conviction, determination, or finding that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter has committed an act which constituted unprofessional conduct and reporting any information which indicates that a federal employee or contractor regulated by the disciplining authorities enumerated in this chapter may not be able to practice his or her profession with reasonable skill and safety as a result of a mental or physical condition.

(d) Reporting under this section is not required by:

(i) Any entity with a peer review committee, quality improvement committee or other similarly designated professional review committee, or by a license holder who is a member of such committee, during the investigative phase of the respective committee's operations if the investigation is completed in a timely manner; or

(ii) An impaired practitioner program or voluntary substance abuse monitoring program approved by a disciplining authority under RCW 18.130.175 if the license holder is currently enrolled in the treatment program, so long as the license holder actively participates in the treatment program and the license holder's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order is a contempt of court as provided in chapter 7.21 RCW.

(3) A person is immune from civil liability, whether direct or derivative, for providing information to the disciplining authority pursuant to the rules adopted under subsection (1) of this section.

(4)(a) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority:

(i) Any conviction, determination, or finding that he or she has committed unprofessional conduct or is unable to practice with reasonable skill or safety; and

(ii) Any disqualification from participation in the federal medicare program, under Title XVIII of the federal social security act or the federal medicaid program, under Title XIX of the federal social security act.

(b) Failure to report within thirty days of notice of the conviction, determination, finding, or disqualification constitutes grounds for disciplinary action.

[2007 c 273 § 23; 2006 c 99 § 2; 2005 c 470 § 2; 1998 c 132 § 8; 1989 c 373 § 19; 1986 c 259 § 4; 1984 c 279 § 7.]

NOTES:

Effective date—Implementation—2007 c 273: See RCW 70.230.900 and 70.230.901.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Severability—1989 c 373: See RCW 7.21.900.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.075

Temporary practice permits—Penalties.

(1) If an individual licensed in another state that has licensing standards substantially equivalent to Washington applies for a license, the disciplining authority shall issue a temporary practice permit authorizing the applicant to practice the profession pending completion of documentation that the applicant meets the requirements for a license and is also not subject to denial of a license or issuance of a conditional license under this chapter. The temporary permit may reflect statutory limitations on the scope of practice. The permit shall be issued only upon the disciplining authority receiving verification from the states in which the applicant is licensed that the applicant is currently licensed and is not subject to charges or disciplinary action for unprofessional conduct or impairment. Notwithstanding RCW 34.05.422(3), the disciplining authority shall establish, by rule, the duration of the temporary practice permits.

(2) Failure to surrender the temporary practice permit is a misdemeanor under RCW 9A.20.010 and shall be unprofessional conduct under this chapter.

(3) The issuance of temporary permits is subject to the provisions of this chapter, including summary suspensions.

[2003 c 53 § 140; 1991 c 332 § 2.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Application to scope of practice—Captions not law—1991 c 332: See notes following RCW 18.130.010.

18.130.080

Unprofessional conduct—Complaint—Investigation—Civil penalty.

(1)(a) An individual, an impaired practitioner program, or a voluntary substance abuse monitoring program approved by a disciplining authority, may submit a written complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor or to report information to the disciplining authority, or voluntary substance abuse monitoring program, or an impaired practitioner program approved by the disciplining authority, which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(b)(i) Every license holder, corporation, organization, health care facility, and state and local governmental agency that employs a license holder shall report to the disciplining authority when the employed license holder's services have been terminated or restricted based upon a final determination that the license holder has either committed an act or acts that may constitute unprofessional conduct or that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(ii) All reports required by (b)(i) of this subsection must be submitted to the disciplining authority as soon as possible, but no later than twenty days after a determination has been made. A report should contain the following information, if known:

(A) The name, address, and telephone number of the person making the report;

(B) The name, address, and telephone number of the license holder being reported;

(C) The case number of any patient whose treatment is the subject of the report;

(D) A brief description or summary of the facts that gave rise to the issuance of the report, including dates of occurrences;

(E) If court action is involved, the name of the court in which the action is filed, the date of filing, and the docket number; and

(F) Any further information that would aid in the evaluation of the report.

(iii) Mandatory reports required by (b)(i) of this subsection are exempt from public inspection and copying to the extent permitted under chapter 42.56 RCW or to the extent that public inspection or copying of the report would invade or violate a person's right to privacy as set forth in RCW 42.56.050.

(2) If the disciplining authority determines that a complaint submitted under subsection (1) of this section merits investigation, or if the disciplining authority has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the disciplining authority shall investigate to determine whether there has been unprofessional conduct. In determining whether or not to investigate, the disciplining authority shall consider any prior complaints received by the disciplining authority, any prior findings of fact under RCW 18.130.110, any stipulations to informal disposition under RCW 18.130.172, and any comparable action taken by other state disciplining authorities.

(3) Notwithstanding subsection (2) of this section, the disciplining authority shall initiate an investigation in every instance where:

(a) The disciplining authority receives information that a health care provider has been disqualified from participating in the federal medicare program, under Title XVIII of the federal social security act, or the federal medicaid program, under Title XIX of the federal social security act; or

(b) There is a pattern of complaints, arrests, or other actions that may not have resulted in a formal adjudication of wrongdoing, but when considered together demonstrate a pattern of similar conduct that, without investigation, likely poses a risk to the safety of the license holder's patients.

(4) Failure of a license holder to submit a mandatory report to the disciplining authority under subsection (1)(b) of this section is punishable by a civil penalty not to exceed five hundred dollars and constitutes unprofessional conduct.

(5) If a report has been made by a hospital to the department under RCW 70.41.210 or an ambulatory surgical facility under RCW 70.230.120, a report to the disciplining authority under subsection (1)(b) of this section is not required.

(6) A person is immune from civil liability, whether direct or derivative, for providing information in good faith to the disciplining authority under this section.

(7)(a) The secretary is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation or licensing of persons under this chapter.

(b) Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.

[2008 c 134 § 8; 2006 c 99 § 5; 1998 c 132 § 9; 1986 c 259 § 5; 1984 c 279 § 8.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.085

Communication with complainant.

If the department communicates in writing to a complainant, or his or her representative, regarding his or her complaint, such communication shall not include the address or telephone number of the health care provider against whom he or she has complained. The department shall inform all applicants for a health care

provider license of the provisions of this section and chapter 42.56 RCW regarding the release of address and telephone information.
[2005 c 274 § 230; 1993 c 360 § 1.]
NOTES:
Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.
Effective date—1993 c 360: "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 shall take effect immediately [May 15, 1993]." [1993 c 360 § 3.]

18.130.090
Statement of charge—Request for hearing.
(1) If the disciplining authority determines, upon investigation, that there is reason to believe a violation of RCW 18.130.180 has occurred, a statement of charge or charges shall be prepared and served upon the license holder or applicant at the earliest practical time. The statement of charge or charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charge or charges. The license holder or applicant must file a request for hearing with the disciplining authority within twenty days after being served the statement of charges. If the twenty-day limit results in a hardship upon the license holder or applicant, he or she may request for good cause an extension not to exceed sixty additional days. If the disciplining authority finds that there is good cause, it shall grant the extension. The failure to request a hearing constitutes a default, whereupon the disciplining authority may enter a decision on the basis of the facts available to it.
(2) If a hearing is requested, the time of the hearing shall be fixed by the disciplining authority as soon as convenient, but the hearing shall not be held earlier than thirty days after service of the charges upon the license holder or applicant.
[1993 c 367 § 1; 1986 c 259 § 6; 1984 c 279 § 9.]
NOTES:
Severability—1986 c 259: See note following RCW 18.130.010.

18.130.095
Uniform procedural rules.
(1)(a) The secretary, in consultation with the disciplining authorities, shall develop uniform procedural rules to respond to public inquiries concerning complaints and their disposition, active investigations, statement of charges, findings of fact, and final orders involving a license holder, applicant, or unlicensed person. The uniform procedural rules adopted under this subsection apply to all adjudicative proceedings conducted under this chapter and shall include provisions for establishing time periods for initial assessment, investigation, charging, discovery, settlement, and adjudication of complaints, and shall include enforcement provisions for violations of the specific time periods by the department, the disciplining authority, and the respondent. A license holder must be notified upon receipt of a complaint, except when the notification would impede an effective investigation. At the earliest point of time the license holder must be allowed to submit a written statement about that complaint, which statement must be included in the file. Complaints filed after July 27, 1997, are exempt from public disclosure under chapter 42.56 RCW until the complaint has been

initially assessed and determined to warrant an investigation by the disciplining authority. Complaints determined not to warrant an investigation by the disciplining authority are no longer considered complaints, but must remain in the records and tracking system of the department. Information about complaints that did not warrant an investigation, including the existence of the complaint, may be released only upon receipt of a written public disclosure request or pursuant to an interagency agreement as provided in (b) of this subsection. Complaints determined to warrant no cause for action after investigation are subject to public disclosure, must include an explanation of the determination to close the complaint, and must remain in the records and tracking system of the department.

(b) The secretary, on behalf of the disciplining authorities, shall enter into interagency agreements for the exchange of records, which may include complaints filed but not yet assessed, with other state agencies if access to the records will assist those agencies in meeting their federal or state statutory responsibilities. Records obtained by state agencies under the interagency agreements are subject to the limitations on disclosure contained in (a) of this subsection.

(2) The uniform procedures for conducting investigations shall provide that prior to taking a written statement:

(a) For violation of this chapter, the investigator shall inform such person, in writing of: (i) The nature of the complaint; (ii) that the person may consult with legal counsel at his or her expense prior to making a statement; and (iii) that any statement that the person makes may be used in an adjudicative proceeding conducted under this chapter; and

(b) From a witness or potential witness in an investigation under this chapter, the investigator shall inform the person, in writing, that the statement may be released to the license holder, applicant, or unlicensed person under investigation if a statement of charges is issued.

(3) Only upon the authorization of a disciplining authority identified in RCW 18.130.040(2)(b), the secretary, or his or her designee, may serve as the presiding officer for any disciplinary proceedings of the disciplining authority authorized under this chapter. The presiding officer shall not vote on or make any final decision in cases pertaining to standards of practice or where clinical expertise is necessary. All functions performed by the presiding officer shall be subject to chapter 34.05 RCW. The secretary, in consultation with the disciplining authorities, shall adopt procedures for implementing this subsection.

(4) Upon delegation from the secretary, a presiding officer may conduct disciplinary proceedings for professions identified in RCW 18.130.040(2)(a). All functions performed by the presiding officer are subject to chapter 34.05 RCW. Decisions of the presiding officer are initial decisions subject to review by the secretary. The secretary shall adopt procedures for implementing this subsection.

(5) The uniform procedural rules shall be adopted by all disciplining authorities listed in RCW 18.130.040(2), and shall be used for all adjudicative proceedings conducted under this chapter, as defined by chapter 34.05 RCW. The uniform procedural rules shall address the use of a presiding officer authorized in subsections (3) and (4) of this section to determine and issue decisions on all legal issues and motions arising during adjudicative proceedings.

[2013 c 109 § 2; 2008 c 134 § 9; 2005 c 274 § 231; 1997 c 270 § 1; 1995 c 336 § 6; 1993 c 367 § 2.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

18.130.098

Settlement—Disclosure—Conference.

(1) The settlement process must be substantially uniform for licensees governed by disciplining authorities under this chapter. The disciplinary [disciplining] authorities may also use alternative dispute resolution to resolve complaints during adjudicative proceedings.

(2) Disclosure of the identity of reviewing disciplining authority members who participate in the settlement process is available to the respondent or his or her representative upon request.

(3) The settlement conference will occur only if a settlement is not achieved through written documents. The respondent will have the opportunity to conference either by phone or in person with the reviewing disciplining authority member if the respondent chooses. The respondent may also have his or her attorney conference either by phone or in person with the reviewing disciplining authority member without the respondent being present personally.

(4) If the respondent wants to meet in person with the reviewing disciplining authority member, he or she will travel to the reviewing disciplining authority member and have such a conference with a department representative in attendance either by phone or in person.

[1995 c 336 § 7; 1994 sp.s. c 9 § 604.]

NOTES:

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

18.130.100

Hearings—Adjudicative proceedings under chapter 34.05 RCW.

The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the Administrative Procedure Act, govern all hearings before the disciplining authority. The disciplining authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.05 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions.

[1989 c 175 § 69; 1984 c 279 § 10.]

NOTES:

Effective date—1989 c 175: See note following RCW 34.05.010.

18.130.110

Findings of fact—Order—Report.

(1) In the event of a finding of unprofessional conduct, the disciplining authority shall prepare and serve findings of fact and an order as provided in chapter 34.05 RCW, the Administrative Procedure Act. If the license holder or applicant is found to have not committed unprofessional conduct, the disciplining authority shall forthwith prepare and serve findings of fact and an order of dismissal of the charges, including public exoneration of the licensee or applicant. The findings of fact and order shall be retained by the disciplining authority as a permanent record.

(2) The disciplining authority shall report the issuance of statements of charges and final orders in cases processed by the disciplining authority to:

(a) The person or agency who brought to the disciplining authority's attention information which resulted in the initiation of the case;

(b) Appropriate organizations, public or private, which serve the professions;

(c) The public. Notification of the public shall include press releases to appropriate local news media and the major news wire services; and

(d) Counterpart licensing boards in other states, or associations of state licensing boards.

(3) This section shall not be construed to require the reporting of any information which is exempt from public disclosure under chapter 42.56 RCW.

[2005 c 274 § 232; 1989 c 175 § 70; 1984 c 279 § 11.]

NOTES:

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Effective date—1989 c 175: See note following RCW 34.05.010.

18.130.120

Actions against license—Exception.

The department shall not issue any license to any person whose license has been denied, revoked, or suspended by the disciplining authority except in conformity with the terms and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplining authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter.

[1984 c 279 § 12.]

18.130.125

License suspension—Nonpayment or default on educational loan or scholarship.

The department shall suspend the license of any person who has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the department a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the department may impose.

[1996 c 293 § 18.]

NOTES:

Severability—1996 c 293: See note following RCW 18.04.420.

18.130.127

License suspension—Noncompliance with support order—Reissuance.

The secretary shall immediately suspend the license of any person subject to this chapter who has been certified by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order as provided in RCW 74.20A.320.

[1997 c 58 § 830.]

NOTES:

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

18.130.130

Orders—When effective—Stay.

An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 RCW, or an order of summary suspension entered under this chapter, shall take effect immediately upon its being served. The order, if appealed to the court, shall not be stayed pending the appeal unless the disciplining authority or court to which the appeal is taken enters an order staying the order of the disciplining authority, which stay shall provide for terms necessary to protect the public. [1986 c 259 § 7; 1984 c 279 § 13.]

NOTES:

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.135

Suspension or restriction orders—Show cause hearing.

(1) Upon an order of a disciplining authority to summarily suspend a license, or restrict or limit a license holder's practice pursuant to RCW 18.130.050 or 18.130.062, the license holder is entitled to a show cause hearing before a panel or the secretary as identified in subsection (2) of this section within fourteen days of requesting a show cause hearing. The license holder must request the show cause hearing within twenty days of the issuance of the order. At the show cause hearing, the disciplining authority has the burden of demonstrating that more probable than not, the license holder poses an immediate threat to the public health and safety. The license holder must request a hearing regarding the statement of charges in accordance with RCW 18.130.090.

(2)(a) In the case of a license holder who is regulated by a board or commission identified in RCW 18.130.040(2)(b), the show cause hearing must be held by a panel of the appropriate board or commission.

(b) In the case of a license holder who is regulated by the secretary under RCW 18.130.040(2)(a), the show cause hearing must be held by the secretary.

(3) At the show cause hearing, the show cause hearing panel or the secretary may consider the statement of charges, the motion, and documents supporting the request for summary action, the respondent's answer to the statement of charges, and shall provide the license holder with an opportunity to provide documentary evidence and written testimony, and be represented by counsel. Prior to the show cause hearing, the disciplining authority shall provide the license holder with all documentation in support of the charges against the license holder.

(4)(a) If the show cause hearing panel or secretary determines that the license holder does not pose an immediate threat to the public health and safety, the panel or secretary may overturn the summary suspension or restriction order.

(b) If the show cause hearing panel or secretary determines that the license holder poses an immediate threat to the public health and safety, the summary suspension or restriction order shall remain in effect. The show cause hearing panel or secretary may amend the order as long as the amended order ensures that the license holder will no longer pose an immediate threat to the public health and safety.

(5) Within forty-five days of the show cause hearing panel's or secretary's determination to sustain the summary suspension or place restrictions on the license, the license holder may request a full hearing on the merits of the disciplining authority's decision to suspend or restrict the license. A full hearing must be provided within forty-five days of receipt of the request for a hearing, unless stipulated otherwise.

[2008 c 134 § 6.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.140

Appeal.

An individual who has been disciplined, whose license has been denied, or whose license has been granted with conditions by a disciplining authority may appeal the decision as provided in chapter 34.05 RCW.

[2008 c 134 § 21; 1984 c 279 § 14.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.150

Reinstatement.

A person whose license has been suspended under this chapter may petition the disciplining authority for reinstatement after an interval as determined by the disciplining authority in the order unless the disciplining authority has found, pursuant to RCW 18.130.160, that the licensee can never be rehabilitated or can never regain the ability to practice with reasonable skill and safety. The disciplining authority shall hold hearings on the petition and may deny the petition or may order reinstatement and impose terms and conditions as provided in RCW 18.130.160 and issue an order of reinstatement. The disciplining authority may require successful completion of an examination as a condition of reinstatement.

A person whose license has been suspended for noncompliance with a support order or visitation order under RCW 74.20A.320 may petition for reinstatement at any time by providing the secretary a release issued by the department of social and health services stating that the person is in compliance with the order. If the person has continued to meet all other requirements for reinstatement during the suspension, the secretary shall automatically reissue the person's license upon receipt of the release, and payment of a reinstatement fee, if any.

[2008 c 134 § 22; 1997 c 58 § 831; 1984 c 279 § 15.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

18.130.160

Finding of unprofessional conduct—Orders—Sanctions—Stay—Costs—Stipulations.

Upon a finding, after hearing, that a license holder has committed unprofessional conduct or is unable to practice with reasonable skill and safety due to a physical or mental condition, the disciplining authority shall issue an order including sanctions adopted in accordance with the schedule adopted under RCW 18.130.390 giving proper consideration to any prior findings of fact under RCW 18.130.110, any stipulations to informal disposition under RCW 18.130.172, and any action taken by other in-state or out-of-state disciplining authorities. The order must provide for one or any combination of the following, as directed by the schedule:

(1) Revocation of the license;

(2) Suspension of the license for a fixed or indefinite term;

(3) Restriction or limitation of the practice;

(4) Requiring the satisfactory completion of a specific program of remedial education or treatment;

(5) The monitoring of the practice by a supervisor approved by the disciplining authority;

(6) Censure or reprimand;

(7) Compliance with conditions of probation for a designated period of time;

(8) Payment of a fine for each violation of this chapter, not to exceed five thousand dollars per violation. Funds received shall be placed in the health professions account;

(9) Denial of the license request;

(10) Corrective action;

(11) Refund of fees billed to and collected from the consumer;

(12) A surrender of the practitioner's license in lieu of other sanctions, which must be reported to the federal data bank.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. Safeguarding the public's health and safety is the paramount responsibility of every disciplining authority. In determining what action is appropriate, the disciplining authority must consider the schedule adopted under RCW 18.130.390. Where the schedule allows flexibility in determining the appropriate sanction, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder. All costs associated with compliance with orders issued under this section are the obligation of the license holder. The disciplining authority may order permanent revocation of a license if it finds that the license holder can never be rehabilitated or can never regain the ability to practice with reasonable skill and safety.

Surrender or permanent revocation of a license under this section is not subject to a petition for reinstatement under RCW 18.130.150.

The disciplining authority may determine that a case presents unique circumstances that the schedule adopted under RCW 18.130.390 does not adequately address. The disciplining authority may deviate from the schedule adopted under RCW 18.130.390 when selecting appropriate sanctions, but the disciplining authority must issue a written explanation of the basis for not following the schedule.

The license holder may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the license holder has been

afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or inability to practice, or a statement by the license holder acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct or inability to practice. The stipulation entered into pursuant to this subsection shall be considered formal disciplinary action for all purposes.
[2008 c 134 § 10. Prior: 2006 c 99 § 6; 2006 c 8 § 104; 2001 c 195 § 1; 1993 c 367 § 6; 1986 c 259 § 8; 1984 c 279 § 16.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.165

Enforcement of fine.

Where an order for payment of a fine is made as a result of a citation under RCW 18.130.230 or a hearing under RCW 18.130.100 or 18.130.190 and timely payment is not made as directed in the final order, the disciplining authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the disciplining authority may have as to any licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review under RCW 18.130.140.

In any action for enforcement of an order of payment of a fine, the disciplining authority's order is conclusive proof of the validity of the order of payment of a fine and the terms of payment.
[2008 c 134 § 23; 1993 c 367 § 20; 1987 c 150 § 4.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Severability—1987 c 150: See RCW 18.122.901.

18.130.170

Capacity of license holder to practice—Hearing—Mental or physical examination—Implied consent.

(1) If the disciplining authority believes a license holder may be unable to practice with reasonable skill and safety to consumers by reason of any mental or physical condition, a statement of charges in the name of the disciplining authority shall be served on the license holder and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder to practice with reasonable skill and safety. If the disciplining authority determines that the license holder is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the disciplining authority shall impose such sanctions under RCW 18.130.160 as is deemed necessary to protect the public.

(2)(a) In investigating or adjudicating a complaint or report that a license holder may be unable to practice with reasonable skill or safety by reason of any mental or physical condition, the disciplining authority may require a license holder to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the disciplining authority. The license holder shall be provided written notice of the disciplining authority's intent to order a mental or physical examination, which notice shall

include: (i) A statement of the specific conduct, event, or circumstances justifying an examination; (ii) a summary of the evidence supporting the disciplining authority's concern that the license holder may be unable to practice with reasonable skill and safety by reason of a mental or physical condition, and the grounds for believing such evidence to be credible and reliable; (iii) a statement of the nature, purpose, scope, and content of the intended examination; (iv) a statement that the license holder has the right to respond in writing within twenty days to challenge the disciplining authority's grounds for ordering an examination or to challenge the manner or form of the examination; and (v) a statement that if the license holder timely responds to the notice of intent, then the license holder will not be required to submit to the examination while the response is under consideration.

(b) Upon submission of a timely response to the notice of intent to order a mental or physical examination, the license holder shall have an opportunity to respond to or refute such an order by submission of evidence or written argument or both. The evidence and written argument supporting and opposing the mental or physical examination shall be reviewed by either a panel of the disciplining authority members who have not been involved with the allegations against the license holder or a neutral decision maker approved by the disciplining authority. The reviewing panel of the disciplining authority or the approved neutral decision maker may, in its discretion, ask for oral argument from the parties. The reviewing panel of the disciplining authority or the approved neutral decision maker shall prepare a written decision as to whether: There is reasonable cause to believe that the license holder may be unable to practice with reasonable skill and safety by reason of a mental or physical condition, or the manner or form of the mental or physical examination is appropriate, or both.

(c) Upon receipt by the disciplining authority of the written decision, or upon the failure of the license holder to timely respond to the notice of intent, the disciplining authority may issue an order requiring the license holder to undergo a mental or physical examination. All such mental or physical examinations shall be narrowly tailored to address only the alleged mental or physical condition and the ability of the license holder to practice with reasonable skill and safety. An order of the disciplining authority requiring the license holder to undergo a mental or physical examination is not a final order for purposes of appeal. The cost of the examinations ordered by the disciplining authority shall be paid out of the health professions account. In addition to any examinations ordered by the disciplining authority, the license holder may submit physical or mental examination reports from licensed or certified health professionals of the license holder's choosing and expense.

(d) If the disciplining authority finds that a license holder has failed to submit to a properly ordered mental or physical examination, then the disciplining authority may order appropriate action or discipline under RCW 18.130.180(9), unless the failure was due to circumstances beyond the person's control. However, no such action or discipline may be imposed unless the license holder has had the notice and opportunity to challenge the disciplining authority's grounds for ordering the examination, to challenge the manner and form, to assert any other defenses, and to have such challenges or defenses considered by either a panel of the disciplining authority members who have not been involved with the allegations against the license holder or a neutral decision maker approved by the disciplining authority, as previously set forth in this section. Further, the action or discipline ordered by the disciplining authority shall not be more severe than a suspension of the license, certification, registration, or application until such time as the license holder complies with the properly ordered mental or physical examination.

(e) Nothing in this section shall restrict the power of a disciplining authority to act in an emergency under RCW 34.05.422(4), 34.05.479, and 18.130.050(8).

(f) A determination by a court of competent jurisdiction that a license holder is mentally incompetent or an individual with mental illness is presumptive evidence of the license holder's inability to practice with

reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity, at his or her expense, to demonstrate that the individual can resume competent practice with reasonable skill and safety to the consumer.

(3) For the purpose of subsection (2) of this section, a license holder governed by this chapter, by making application, practicing, or filing a license renewal, is deemed to have given consent to submit to a mental, physical, or psychological examination when directed in writing by the disciplining authority and further to have waived all objections to the admissibility or use of the examining health professional's testimony or examination reports by the disciplining authority on the ground that the testimony or reports constitute privileged communications.

[2008 c 134 § 11; 1995 c 336 § 8; 1987 c 150 § 6; 1986 c 259 § 9; 1984 c 279 § 17.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.172

Evidence summary and stipulations.

(1) Prior to serving a statement of charges under RCW 18.130.090 or 18.130.170, the disciplinary [disciplining] authority may furnish a statement of allegations to the licensee along with a detailed summary of the evidence relied upon to establish the allegations and a proposed stipulation for informal resolution of the allegations. These documents shall be exempt from public disclosure until such time as the allegations are resolved either by stipulation or otherwise.

(2) The disciplinary [disciplining] authority and the licensee may stipulate that the allegations may be disposed of informally in accordance with this subsection. The stipulation shall contain a statement of the facts leading to the filing of the complaint; the act or acts of unprofessional conduct alleged to have been committed or the alleged basis for determining that the licensee is unable to practice with reasonable skill and safety; a statement that the stipulation is not to be construed as a finding of either unprofessional conduct or inability to practice; an acknowledgment that a finding of unprofessional conduct or inability to practice, if proven, constitutes grounds for discipline under this chapter; and an agreement on the part of the licensee that the sanctions set forth in RCW 18.130.160, except RCW 18.130.160 (1), (2), (6), and (8), may be imposed as part of the stipulation, except that no fine may be imposed but the licensee may agree to reimburse the disciplinary [disciplining] authority the costs of investigation and processing the complaint up to an amount not exceeding one thousand dollars per allegation; and an agreement on the part of the disciplinary [disciplining] authority to forego further disciplinary proceedings concerning the allegations. A stipulation entered into pursuant to this subsection shall not be considered formal disciplinary action.

(3) If the licensee declines to agree to disposition of the charges by means of a stipulation pursuant to subsection (2) of this section, the disciplinary [disciplining] authority may proceed to formal disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

(4) Upon execution of a stipulation under subsection (2) of this section by both the licensee and the disciplinary [disciplining] authority, the complaint is deemed disposed of and shall become subject to public disclosure on the same basis and to the same extent as other records of the disciplinary [disciplining] authority. Should the licensee fail to pay any agreed reimbursement within thirty days of the date specified in the stipulation for payment, the disciplinary [disciplining] authority may seek collection of the amount agreed to be paid in the same manner as enforcement of a fine under RCW 18.130.165.

[2008 c 134 § 24; 2000 c 171 § 29; 1993 c 367 § 7.]

NOTES:

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.175

Voluntary substance abuse monitoring programs.

(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 substance abuse, the disciplining authority may refer the license holder to a voluntary substance abuse monitoring program approved by the disciplining authority.

The cost of the 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. Primary alcoholism or other drug addiction treatment shall be provided by approved treatment programs under RCW 70.96A.020 or by any other provider approved by the entity or the commission. However, nothing shall prohibit the disciplining authority from approving additional services and programs as an adjunct to primary alcoholism or other drug addiction treatment. The disciplining authority may also approve the use of out-of-state programs. Referral of the license holder to the program shall be done only with the consent of the license holder. Referral to the 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 voluntary substance abuse monitoring program, determines the license holder is able to practice safely. The secretary shall adopt uniform rules for the evaluation by the disciplinary [disciplining] authority of a relapse or program violation on the part of a license holder in the substance abuse monitoring program. The evaluation shall encourage program participation with additional conditions, in lieu of disciplinary action, when the disciplinary [disciplining] authority determines that the license holder is able to continue to practice with reasonable skill and safety.

(2) In addition to approving substance abuse monitoring programs 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 for substance abuse. 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 substance abuse, 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 substance abuse 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) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved programs shall be confidential, shall be exempt from chapter 42.56 RCW, and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplining authority for cause as defined in subsection (3) of this section. Monitoring records relating to license holders referred to the program by the disciplining authority or relating to license holders reported to the disciplining

authority by the program for cause, shall be released to the disciplining authority at the request of the disciplining authority. Records held by the disciplining authority under this section shall be exempt from chapter 42.56 RCW and shall not be subject to discovery by subpoena except by the license holder.

(5) "Substance abuse," as used in this section, means the impairment, as determined by the disciplining authority, of a license holder's professional services by an addiction to, a dependency on, or the use of alcohol, legend drugs, or controlled substances.

(6) 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.

(7) 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 the persons entitled to immunity shall include:

(i) An approved monitoring treatment program;

(ii) The professional association operating the program;

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

(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 impaired license holder's treatment or rehabilitation.

(b) The courts are strongly encouraged to impose sanctions on clients 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.

[2006 c 99 § 7; 2005 c 274 § 233; 1998 c 132 § 10; 1993 c 367 § 3; 1991 c 3 § 270; 1988 c 247 § 2.]

NOTES:

Effective date—2006 c 99 § 7: "Section 7 of this act takes effect July 1, 2006." [2006 c 99 § 11.]

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Legislative intent—1988 c 247: "Existing law does not provide for a program for rehabilitation of health professionals whose competency may be impaired due to the abuse of alcohol and other drugs.

It is the intent of the legislature that the disciplining authorities seek ways to identify and support the rehabilitation of health professionals whose practice or competency may be impaired due to the abuse of drugs or alcohol. The legislature intends that such health professionals be treated so that they can return to or continue to practice their profession in a way which safeguards the public. The legislature specifically intends that the disciplining authorities establish an alternative program to the traditional administrative proceedings against such health professionals." [1988 c 247 § 1.]

18.130.180

Unprofessional conduct.

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license

holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by *RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards.

[2010 c 9 § 5; 2008 c 134 § 25; 1995 c 336 § 9; 1993 c 367 § 22. Prior: 1991 c 332 § 34; 1991 c 215 § 3; 1989 c 270 § 33; 1986 c 259 § 10; 1984 c 279 § 18.]

NOTES:

***Reviser's note:** RCW 18.130.345 was repealed by 2015 c 205 § 5.

Intent—2010 c 9: See note following RCW 69.50.315.

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

Application to scope of practice—Captions not law—1991 c 332: See notes following RCW 18.130.010.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.185

Injunctive relief for violations of RCW 18.130.170 or 18.130.180.

If a person or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the secretary, the board, or any other person may maintain an action in the name of the state of Washington to enjoin the person from committing the violations. The injunction shall not relieve the offender from criminal prosecution, but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution and disciplinary action.

[1993 c 367 § 8; 1987 c 150 § 8; 1986 c 259 § 15.]

NOTES:

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.186

Voluntary substance abuse monitoring program—Content—License surcharge.

(1) To implement a substance abuse monitoring program for license holders specified under RCW 18.130.040, who are impaired by substance abuse, the disciplinary [disciplining] authority may enter into a contract with a voluntary substance abuse program under RCW 18.130.175. The program may include any or all of the following:

(a) Contracting with providers of treatment programs;

(b) Receiving and evaluating reports of suspected impairment from any source;

(c) Intervening in cases of verified impairment;

(d) Referring impaired license holders to treatment programs;

(e) Monitoring the treatment and rehabilitation of impaired license holders including those ordered by the disciplinary [disciplining] authority;

(f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired license holders; and

(g) Performing other activities as agreed upon by the disciplinary [disciplining] authority.

(2) A contract entered into under subsection (1) of this section may be financed by a surcharge on each license issuance or renewal to be collected by the department of health from the license holders of the same regulated health profession. These moneys shall be placed in the health professions account to be used solely for the implementation of the program.

[1993 c 367 § 9; 1989 c 125 § 3.]

18.130.190

Practice without license—Investigation of complaints—Cease and desist orders—Injunctions—Penalties.

(1) The secretary shall investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. In the investigation of the complaints, the secretary shall have the same authority as provided the secretary under RCW 18.130.050.

(2) The secretary may issue a notice of intention to issue a cease and desist order to any person whom the secretary has reason to believe is engaged in the unlicensed practice of a profession or business for which a license is required by the chapters specified in RCW 18.130.040. The person to whom such notice is issued may request an adjudicative proceeding to contest the charges. The request for hearing must be filed within twenty days after service of the notice of intention to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(3) If the secretary makes a final determination that a person has engaged or is engaging in unlicensed practice, the secretary may issue a cease and desist order. In addition, the secretary may impose a civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in unlicensed practice of a business or profession for which a license is required by one or more of the chapters specified in RCW 18.130.040. The proceeds of such fines shall be deposited to the health professions account.

(4) If the secretary makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the secretary may issue a temporary cease and desist order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. The temporary cease and desist order shall remain in effect until further order of the secretary. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the secretary may enter a permanent cease and desist order, which may include a civil fine.

(5) Neither the issuance of a cease and desist order nor payment of a civil fine shall relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order or civil fine shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(6) The attorney general, a county prosecuting attorney, the secretary, a board, or any person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any person practicing a profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(7)(a) Unlicensed practice of a profession or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor for a single violation.

(b) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a class C felony punishable according to chapter 9A.20 RCW.

(8) All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account.

[2003 c 53 § 141; 2001 c 207 § 2. Prior: 1995 c 285 § 35; 1993 c 367 § 19; 1991 c 3 § 271; prior: 1989 c 373 § 20; 1989 c 175 § 71; 1987 c 150 § 7; 1986 c 259 § 11; 1984 c 279 § 19.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Purpose—2001 c 207: "The purpose of this act is to respond to *State v. Thomas*, 103 Wn. App. 800, by reenacting and ranking, without changes, legislation relating to the crime of unlicensed practice of a profession or a business, enacted as section 35, chapter 285, Laws of 1995." [2001 c 207 § 1.]

Effective date—2001 c 207: "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 immediately [May 7, 2001]." [2001 c 207 § 4.]

Effective date—1995 c 285: See RCW 48.30A.900.

Severability—1989 c 373: See RCW 7.21.900.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1987 c 150: See RCW 18.122.901.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.195

Violation of injunction—Penalty.

A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be placed in the health professions account. For the purpose of this section, the superior court issuing any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

[1987 c 150 § 5.]

NOTES:

Severability—1987 c 150: See RCW 18.122.901.

Chapter 18.130 RCW

REGULATION OF HEALTH PROFESSIONS — UNIFORM DISCIPLINARY ACT

18.130.200

Fraud or misrepresentation in obtaining or maintaining a license—Penalty.

A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor.

[1997 c 392 § 517; 1986 c 259 § 12; 1984 c 279 § 20.]

NOTES:

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.210

Crime by license holder—Notice to attorney general or county prosecuting attorney.

If the disciplining authority determines or has cause to believe that a license holder has committed a crime, the disciplining authority, immediately subsequent to issuing findings of fact and a final order, shall notify the attorney general or the county prosecuting attorney in the county in which the act took place of the facts known to the disciplining authority.

[1986 c 259 § 13; 1984 c 279 § 22.]

NOTES:

Severability—1986 c 259: See note following RCW 18.130.010.

18.130.230

Production of documents—Administrative fines.

(1)(a) A licensee must produce documents, records, or other items that are within his or her possession or control within twenty-one calendar days of service of a request by a disciplining authority. If the twenty-one calendar day limit results in a hardship upon the licensee, he or she may request, for good cause, an extension not to exceed thirty additional calendar days.

(b) In the event the licensee fails to produce the documents, records, or other items as requested by the disciplining authority or fails to obtain an extension of the time for response, the disciplining authority may issue a written citation and assess a fine of up to one hundred dollars per day for each day after the issuance of the citation until the documents, records, or other items are produced.

(c) In no event may the administrative fine assessed by the disciplining authority exceed five thousand dollars for each investigation made with respect to the violation.

(2) Citations issued under this section must include the following:

(a) A statement that the citation represents a determination that the person named has failed to produce documents, records, or other items as required by this section and that the determination is final unless contested as provided in this section;

(b) A statement of the specific circumstances;

(c) A statement of the monetary fine, which is up to one hundred dollars per day for each day after the issuance of the citation;

(d) A statement informing the licensee that if the licensee desires a hearing to contest the finding of a violation, the hearing must be requested by written notice to the disciplining authority within twenty days of the date of issuance of the citation. The hearing is limited to the issue of whether the licensee timely produced the requested documents, records, or other items or had good cause for failure to do so; and

(e) A statement that in the event a licensee fails to pay a fine within thirty days of the date of assessment, the full amount of the assessed fine must be added to the fee for renewal of the license unless the citation is being appealed.

(3) RCW 18.130.165 governs proof and enforcement of the fine.

(4) Administrative fines collected under this section must be deposited in the health professions account created in RCW 43.70.320.

(5) Issuance of a citation under this section does not preclude the disciplining authority from pursuing other action under this chapter.

(6) The disciplining authority shall establish and make available to licensees the maximum daily monetary fine that may be issued under subsection (2)(c) of this section. The disciplining authority shall review the maximum fine on a regular basis, but at a minimum, each biennium.

[2008 c 134 § 20.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.250

Retired active license status.

The disciplining authority may adopt rules pursuant to this section authorizing a retired active license status. An individual credentialed by a disciplining authority regulated in the state under RCW 18.130.040, who is practicing only in emergent or intermittent circumstances as defined by rule established by the disciplining authority, may hold a retired active license at a reduced renewal fee established by the secretary under RCW 43.70.250 or, for a physician regulated pursuant to chapter 18.71 RCW who resides and practices in Washington and holds a retired active license, at no renewal fee. Except as provided in RCW 18.71.080, such a license shall meet the continuing education or continued competency requirements, if any, established by the disciplining authority for renewals, and is subject to the provisions of this chapter. Individuals who have entered into retired status agreements with the disciplinary [disciplining] authority in any jurisdiction shall not qualify for a retired active license under this section.

[2009 c 403 § 3; 1991 c 229 § 1.]

NOTES:

Finding—Intent—2009 c 403: See note following RCW 18.71.080.

18.130.270

Continuing competency pilot projects.

The disciplinary [disciplining] authorities are authorized to develop and require licensees' participation in continuing competency pilot projects for the purpose of developing flexible, cost-efficient, effective, and geographically accessible competency assurance methods. The secretary shall establish criteria for development of pilot projects and shall select the disciplinary [disciplining] authorities that will participate

from among the professions requesting participation. The department shall administer the projects in mutual cooperation with the disciplinary [disciplining] authority and shall allot and administer the budget for each pilot project. The department shall report to the legislature in January of each odd-numbered year concerning the progress and findings of the projects and shall make recommendations on the expansion of continued competency requirements to other licensed health professions.

Each disciplinary [disciplining] authority shall establish its pilot project in rule and may support the projects from a surcharge on each of the affected profession's license renewal in an amount established by the secretary.

[1991 c 332 § 3.]

NOTES:

Application to scope of practice—Captions not law—1991 c 332: See notes following RCW 18.130.010.

18.130.300

Immunity from liability.

(1) The secretary, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties.

(2) A voluntary substance abuse monitoring program or an impaired practitioner program approved by a disciplining authority, or individuals acting on their behalf, are immune from suit in a civil action based on any disciplinary proceedings or other official acts performed in the course of their duties.

[1998 c 132 § 11; 1994 sp.s. c 9 § 605; 1993 c 367 § 10; 1984 c 279 § 21.]

NOTES:

Finding—Intent—Severability—1998 c 132: See notes following RCW 18.71.0195.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

18.130.310

Biennial report—Contents—Format.

(1) Subject to RCW 40.07.040, the disciplinary [disciplining] authority shall submit a biennial report to the legislature on its proceedings during the biennium, detailing the number of complaints made, investigated, and adjudicated and manner of disposition. In addition, the report must provide data on the department's background check activities conducted under RCW 18.130.064 and the effectiveness of those activities in identifying potential license holders who may not be qualified to practice safely. The report must summarize the distribution of the number of cases assigned to each attorney and investigator for each profession. The identity of the attorney and investigator must remain anonymous. The report may include recommendations for improving the disciplinary process, including proposed legislation. The department shall develop a uniform report format.

(2) Each disciplining authority identified in RCW 18.130.040(2)(b) may submit a biennial report to complement the report required under subsection (1) of this section. Each report may provide additional

information about the disciplinary activities, rule-making and policy activities, and receipts and expenditures for the individual disciplining authority.
[2009 c 518 § 22; 2008 c 134 § 13; 1989 1st ex.s. c 9 § 313; 1987 c 505 § 5; 1984 c 279 § 23.]
NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.
Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

18.130.340

Opiate therapy guidelines.

The secretary of health shall coordinate and assist the regulatory boards and commissions of the health professions with prescriptive authority in the development of uniform guidelines for addressing opiate therapy for acute pain, and chronic pain associated with cancer and other terminal diseases, or other chronic or intractable pain conditions. The purpose of the guidelines is to assure the provision of effective medical treatment in accordance with recognized national standards and consistent with requirements of the public health and safety.
[1995 c 336 § 10.]

18.130.350

Application—Use of records or exchange of information not affected.

This chapter does not affect the use of records, obtained from the secretary or the disciplining authorities, in any existing investigation or action by any state agency. Nor does this chapter limit any existing exchange of information between the secretary or the disciplining authorities and other state agencies.
[1997 c 270 § 3.]

18.130.360

Retired volunteer medical worker license—Supervision—Rules.

(1) As used in this section, "emergency or disaster" has the same meaning as in RCW 38.52.010.

(2) The secretary shall issue a retired volunteer medical worker license to any applicant who:

(a) Has held an active license issued by a disciplining authority under RCW 18.130.040 no more than ten years prior to applying for an initial license under this section;

(b) Does not have any current restrictions on the ability to obtain a license for violations of this chapter; and

(c) Submits proof of registration as a volunteer with a local organization for emergency services or management as defined by chapter 38.52 RCW.

(3) License holders under this section must be supervised and may practice only those duties that correspond to the scope of their emergency worker assignment not to exceed their scope of practice prior to retirement.

(4) The department shall adopt rules and policies to implement this section.

(5) The department shall establish standards for the renewal of licenses issued under this section, including continuing competency requirements.

(6) License holders under this section are subject to the provisions of this chapter as they may apply to the issuance and denial of credentials, unauthorized practice, and discipline for acts of unprofessional conduct.

(7) Nothing in this section precludes a health care professional who holds an active license from providing medical services during an emergency or disaster.

(8) The cost of regulatory activities for license holders under this section must be borne in equal proportion by all health care providers holding a license issued by a disciplining authority under RCW 18.130.040.

[2006 c 72 § 1.]

18.130.370

Prohibition on practicing in another state—Prohibited from practicing in this state until proceedings of appropriate disciplining authority are completed.

Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and is prohibited from practicing a health care profession in another state 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 is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050.

[2006 c 99 § 3.]

18.130.390

Sanctioning schedule—Development.

(1) Each of the disciplining authorities identified in RCW 18.130.040(2)(b) shall appoint a representative to review the secretary's sanctioning guidelines, as well as guidelines adopted by any of the boards and commissions, and collaborate to develop a schedule that defines appropriate ranges of sanctions that are applicable upon a determination that a license holder has committed unprofessional conduct as defined in this chapter or the chapters specified in RCW 18.130.040(2). The schedule must identify aggravating and mitigating circumstances that may enhance or reduce the sanction imposed by the disciplining authority for unprofessional conduct. The schedule must apply to all disciplining authorities. In addition, the disciplining authorities shall make provisions for instances in which there are multiple findings of unprofessional conduct. When establishing the proposed schedule, the disciplining authorities shall consider maintaining consistent sanction determinations that maximize the protection of the public's health and while maintaining the rights of health care providers of the different health professions. The disciplining authorities shall submit the proposed schedule and recommendations to modify or adopt the secretary's guidelines to the secretary no later than November 15, 2008.

(2) The secretary shall adopt rules establishing a uniform sanctioning schedule that is consistent with the proposed schedule developed under subsection (1) of this section. The schedule shall be applied to all disciplinary actions commenced under this chapter after January 1, 2009. The secretary shall use his or her emergency rule-making authority pursuant to the procedures under chapter 34.05 RCW, to adopt rules that take effect no later than January 1, 2009, to implement the schedule.

(3) The disciplining authority may determine that a case presents unique circumstances that the schedule adopted under this section does not adequately address. The disciplining authority may deviate from the

schedule adopted under this section when selecting appropriate sanctions, but the disciplining authority must issue a written explanation in the order of the basis for not following the schedule.

(4) The secretary shall report to the legislature by January 15, 2009, on the adoption of the sanctioning schedule.

[2008 c 134 § 12.]

NOTES:

Finding—Intent—Severability—2008 c 134: See notes following RCW 18.130.020.

18.130.400

Abuse of vulnerable adult—Prohibition on practice.

Any individual who applies for a license or temporary practice permit or holds a license or temporary practice permit and has a final finding issued by the department of social and health services of abuse or neglect of a minor or abuse, abandonment, neglect, or financial exploitation of a vulnerable adult is prohibited from practicing a health care profession in this state until proceedings of the appropriate disciplining authority have been completed under RCW 18.130.050.

[2013 c 86 § 1.]

NOTES:

Effective date—2013 c 86: "This act takes effect January 1, 2014." [2013 c 86 § 3.]

18.130.410

Collecting blood samples without consent under direction of law enforcement.

It is not professional misconduct for a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, to collect a blood sample without a person's consent when the physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood was directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances: PROVIDED, That nothing in this section shall relieve a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed

clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood from professional discipline arising from the use of improper procedures or from failing to exercise the required standard of care.
[2015 2nd sp.s. c 3 § 21.]
NOTES:
Finding—Intent—2015 2nd sp.s. c 3: See note following RCW 10.21.055.

18.130.900
Short title—Applicability.
(1) This chapter shall be known and cited as the uniform disciplinary act.
(2) This chapter applies to any conduct, acts, or conditions occurring on or after June 11, 1986.
(3) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to June 11, 1986. Such conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.
[1986 c 259 § 14; 1984 c 279 § 24.]
NOTES:
Severability—1986 c 259: See note following RCW 18.130.010.

18.130.901
Severability—1984 c 279.
If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
[1984 c 279 § 95.]

Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

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Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

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NOTES:

Chapter 69.07 RCW does not impair authority of director or department under this chapter: RCW 69.07.160.
Dairies and dairy products: Chapter 15.36 RCW.
Food processing inspection account: RCW 69.07.120.
Patent medicine peddlers: Chapter 18.64 RCW.

69.04.001
Statement of purpose.

This chapter is intended to enact state legislation (1) which safeguards the public health and promotes the public welfare by protecting the consuming public from (a) potential injury by product use; (b) products that are adulterated; or (c) products that have been produced under unsanitary conditions, and the purchasing public from injury by merchandising deceit flowing from intrastate commerce in food, drugs, devices, and cosmetics; and (2) which is uniform, as provided in this chapter, with the federal food, drug, and cosmetic act; and with the federal trade commission act, to the extent it expressly outlaws the false advertisement of food, drugs, devices, and cosmetics; and (3) which thus promotes uniformity of such law and its administration and enforcement, in and throughout the United States.

[1991 c 162 § 1; 1945 c 257 § 2; Rem. Supp. 1945 § 6163-51.]

NOTES:

Conformity with federal regulations: RCW 69.04.190 and 69.04.200.

69.04.002
Introductory.

For the purposes of this chapter, terms shall apply as herein defined unless the context clearly indicates otherwise.

[1945 c 257 § 3; Rem. Supp. 1945 § 6163-52.]

69.04.003
"Federal act" defined.

The term "federal act" means the federal food, drug, and cosmetic act, approved on June 25, 1938. (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.)

[1945 c 257 § 4; Rem. Supp. 1945 § 6163-53.]

69.04.004
"Intrastate commerce."

The term "intrastate commerce" means any and all commerce within the state of Washington and subject to the jurisdiction thereof; and includes the operation of any business or service establishment.

[1945 c 257 § 5; Rem. Supp. 1945 § 6163-54.]

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69.04.005
"Sale."

The term "sale" means any and every sale and includes (1) manufacture, processing, packing, canning, bottling, or any other production, preparation, or putting up; (2) exposure, offer, or any other proffer; (3) holding, storing, or any other possessing; (4) dispensing, giving, delivering, serving, or any other supplying; and (5) applying, administering, or any other using.
[1945 c 257 § 6; Rem. Supp. 1945 § 6163-55.]

69.04.006
"Director."

The term "director" means the director of the department of agriculture of the state of Washington and his or her duly authorized representatives.
[2012 c 117 § 328; 1945 c 257 § 7; Rem. Supp. 1945 § 6163-56.]
NOTES:
Director of agriculture, general duties: Chapter 43.23 RCW.

69.04.007
"Person."

The term "person" includes individual, partnership, corporation, and association.
[1945 c 257 § 8; Rem. Supp. 1945 § 6163-57.]

69.04.008
"Food."

The term "food" means (1) articles used for food or drink for people or other animals, (2) bottled water, (3) chewing gum, and (4) articles used for components of any such article.
[1992 c 34 § 2; 1945 c 257 § 9; Rem. Supp. 1945 § 6163-58.]
NOTES:
Severability—1992 c 34: See note following RCW 69.07.170.

69.04.009
"Drugs."

The term "drug" means (1) articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; and (3) articles (other than food) intended to affect the structure or any

function of the body of human beings or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.
[2009 c 549 § 1018; 1945 c 257 § 10; Rem. Supp. 1945 § 6163-59. Prior: 1907 c 211 § 2.]

69.04.010
"Device."

The term "device" (except when used in RCW 69.04.016 and in RCW 69.04.040(10), 69.04.270, 69.04.690, and in RCW 69.04.470 as used in the sentence "(as compared with other words, statements, designs, or devices, in the labeling)") means instruments, apparatus, and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals; or (2) to affect the structure or any function of the body of human beings or other animals.
[2009 c 549 § 1019; 1945 c 257 § 11; Rem. Supp. 1945 § 6163-60.]

69.04.011
"Cosmetic."

The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such article; except that such term shall not include soap.
[1945 c 257 § 12; Rem. Supp. 1945 § 6163-61.]

69.04.012
"Official compendium."

The term "official compendium" mean the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them.
[1945 c 257 § 13; Rem. Supp. 1945 § 6163-62.]

69.04.013
"Label."

The term "label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.
[1945 c 257 § 14; Rem. Supp. 1945 § 6163-63.]

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69.04.014
"Immediate container."

The term "immediate container" does not include package liners.
[1945 c 257 § 15; Rem. Supp. 1945 § 6163-64.]

69.04.015
"Labeling."

The term "labeling" means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.
[1945 c 257 § 16; Rem. Supp. 1945 § 6163-65.]

NOTES:

Crimes relating to labeling: Chapter 9.16 RCW, RCW 69.40.055.

69.04.016
"Misleading labeling or advertisement," how determined.

If any article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading there shall be taken into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.
[1945 c 257 § 17; Rem. Supp. 1945 § 6163-66.]

NOTES:

Crimes relating to advertising: Chapter 9.04 RCW.

69.04.017
"Antiseptic" as germicide.

The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.
[1945 c 257 § 18; Rem. Supp. 1945 § 6163-67.]

69.04.018

"New drug" defined.

The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions: PROVIDED, That no drug in use on the *effective date of this chapter shall be regarded as a new drug.
[1945 c 257 § 19; Rem. Supp. 1945 § 6163-68.]

NOTES:

***Effective date—1945 c 257:** See RCW 69.04.860.

69.04.019

"Advertisement."

The term "advertisement" means all representations, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.
[1945 c 257 § 20; Rem. Supp. 1945 § 6163-69.]

69.04.020

"Contaminated with filth."

The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
[1945 c 257 § 21; Rem. Supp. 1945 § 6163-70.]

69.04.021

"Package."

The word "package" shall include, and be construed to include, wrapped meats enclosed in papers or other materials as prepared by the manufacturers thereof for sale.
[1963 c 198 § 8.]

69.04.022

"Pesticide chemical."

The term "pesticide chemical" means any substance defined as an economic poison and/or agricultural pesticide in Title 15 RCW as now enacted or hereafter amended.
[1963 c 198 § 9.]

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69.04.023
"Raw agricultural commodity."

The term "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.
[1963 c 198 § 10.]

69.04.024
"Food additive," "safe."

(1) The term "food additive" means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance generally is recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in food prior to January 1, 1958; through either scientific procedures or experience based on common use in food) to be unsafe under the conditions of its intended use; except that such term does not include; (a) a pesticide chemical in or on a raw agricultural commodity; or (b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or (c) a color additive.

(2) The term "safe" as used in the food additive definition has reference to the health of human beings or animals.
[2009 c 549 § 1020; 1963 c 198 § 11.]

69.04.025
"Color additive," "color."

(1) The term "color additive" means a material which (a) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and (b) when added or applied to a food is capable (alone or through reaction with other substance) of imparting color thereto; except that such term does not include any material which the director, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

(2) The term "color" includes black, white, and intermediate grays.

(3) Nothing in subsection (1) hereof shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color, whether before or after harvest.
[1963 c 198 § 12.]

69.04.040

Prohibited acts.

The following acts and the causing thereof are hereby prohibited:

(1) The sale in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded.

(2) The adulteration or misbranding of any food, drug, device, or cosmetic in intrastate commerce.

(3) The receipt in intrastate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the sale thereof in such commerce for pay or otherwise.

(4) The introduction or delivery for introduction into intrastate commerce of (a) any food in violation of RCW 69.04.350; or (b) any new drug in violation of RCW 69.04.570.

(5) The dissemination within this state, in any manner or by any means or through any medium, of any false advertisement.

(6) The refusal to permit (a) entry and the taking of a sample or specimen or the making of any investigation or examination as authorized by RCW 69.04.780; or (b) access to or copying of any record as authorized by RCW 69.04.810.

(7) The refusal to permit entry or inspection as authorized by RCW 69.04.820.

(8) The removal, mutilation, or violation of an embargo notice as authorized by RCW 69.04.110.

(9) The giving of a guaranty or undertaking in intrastate commerce, referred to in RCW 69.04.080, that is false.

(10) The forging, counterfeiting, simulating, or falsely representing, or without proper authority, using any mark, stamp, tag, label, or other identification device authorized or required by regulations promulgated under RCW 69.04.350.

(11) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of a food, drug, device, or cosmetic, or the doing of any other act with respect to a food, drug, device, or cosmetic, or the labeling or advertisement thereof, which results in a violation of this chapter.

(12) The using in intrastate commerce, in the labeling or advertisement of any drug, of any representation or suggestion that an application with respect to such drug is effective under section 505 of the federal act or under RCW 69.04.570, or that such drug complies with the provisions of either such section.

[1945 c 257 § 22; Rem. Supp. 1945 § 6163-71. Prior: 1917 c 168 § 1; 1907 c 211 § 1; 1901 c 94 § 1.]

69.04.050

Remedy by injunction.

(1) In addition to the remedies hereinafter provided the director is hereby authorized to apply to the superior court of Thurston county for, and such court shall have jurisdiction upon prompt hearing and for cause shown to grant, a temporary or permanent injunction restraining any person from violating any provision of RCW 69.04.040; without proof that an adequate remedy at law does not exist.

(2) Whenever it appears to the satisfaction of the court in the case of a newspaper, magazine, periodical, or other publication, published at regular intervals (a) that restraining the dissemination of a false advertisement in any particular issue of such publication would delay the delivery of such issue after the regular time therefor, and (b) that such delay would be due to the method by which the manufacture and distribution of such publication is customarily conducted by the publisher in accordance with sound business practice, and not to any method or device adopted for the evasion of this section or to prevent or delay the issuance of an injunction or restraining order with respect to such false advertisement or any other advertisement, the court shall exclude such issue from the operation of the restraining order or injunction.

[1945 c 257 § 23; Rem. Supp. 1945 § 6163-72.]

NOTES:

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Injunctions, generally: Chapter 7.40 RCW.

69.04.060
Criminal penalty for violations.

Except as otherwise provided in this chapter, any person who violates any provision of RCW 69.04.040 is guilty of a misdemeanor and shall on conviction thereof be subject to the following penalties:

(1) A fine of not more than two hundred dollars; or

(2) If the violation is committed after a conviction of such person under this section has become final, imprisonment for not more than thirty days, or a fine of not more than five hundred dollars, or both such imprisonment and fine.

[2013 c 290 § 1; 2003 c 53 § 314; 1945 c 257 § 24; Rem. Supp. 1945 § 6163-73. Prior: 1907 c 211 § 12; 1901 c 94 § 11.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.04.070
Additional penalty.

Notwithstanding the provisions of RCW 69.04.060, a person who violates RCW 69.04.040 with intent to defraud or mislead is guilty of a misdemeanor and the penalty shall be imprisonment for not more than ninety days, or a fine of not more than one thousand dollars, or both such imprisonment and fine.

[2003 c 53 § 315; 1945 c 257 § 25; Rem. Supp. 1945 § 6163-74.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.04.080
Avoidance of penalty.

No person shall be subject to the penalties of RCW 69.04.060:

(1) For having violated RCW 69.04.040(3), if he or she establishes that he or she received and sold such article in good faith, unless he or she refuses on request of the director to furnish the name and address of the person in the state of Washington from whom he or she received such article and copies of all available documents pertaining to his or her receipt thereof; or

(2) For having violated RCW 69.04.040 (1), (3), or (4), if he or she establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he or she received such article in good faith, to the effect that such article complies with this chapter; or

(3) For having violated RCW 69.04.040(5), if he or she establishes a guaranty or undertaking signed by, and containing the name and address of, the person in the state of Washington from whom he or she received such advertisement in good faith, to the effect that such advertisement complies with this chapter; or

(4) For having violated RCW 69.04.040(9), if he or she establishes that he or she gave such guaranty or undertaking in good faith and in reliance on a guaranty or undertaking to him or her, which guaranty or

undertaking was to the same effect and was signed by, and contained the name and address of, a person in the state of Washington.
[2012 c 117 § 329; 1945 c 257 § 26; Rem. Supp. 1945 § 6163-75.]

69.04.090
Liability of disseminator of advertisement.

No publisher, radio broadcast licensee, advertising agency, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which the advertisement relates, shall be subject to the penalties of RCW 69.04.060 by reason of his or her dissemination of any false advertisement, unless he or she has refused on the request of the director to furnish the name and address of the manufacturer, packer, distributor, seller, or advertising agency in the state of Washington, who caused him or her to disseminate such false advertisement.
[2012 c 117 § 330; 1945 c 257 § 27; Rem. Supp. 1945 § 6163-76.]

69.04.100
Condemnation of adulterated or misbranded article.

Whenever the director shall find in intrastate commerce an article subject to this chapter which is so adulterated or misbranded that it is unfit or unsafe for human use and its immediate condemnation is required to protect the public health, such article is hereby declared to be a nuisance and the director is hereby authorized forthwith to destroy such article or to render it unsalable for human use.
[1945 c 257 § 28; Rem. Supp. 1945 § 6163-77.]

69.04.110
Embargo of articles.

Whenever the director shall find, or shall have probable cause to believe, that an article subject to this chapter is in intrastate commerce in violation of this chapter, and that its embargo under this section is required to protect the consuming or purchasing public, due to its being adulterated or misbranded, or to otherwise protect the public from injury, or possible injury, he or she is hereby authorized to affix to such article a notice of its embargo and against its sale in intrastate commerce, without permission given under this chapter. But if, after such article has been so embargoed, the director shall find that such article does not involve a violation of this chapter, such embargo shall be forthwith removed.
[1991 c 162 § 3; 1975 1st ex.s. c 7 § 25; 1945 c 257 § 29; Rem. Supp. 1945 § 6163-78.]
NOTES:

Purpose of section: See RCW 69.04.398.

69.04.120
Procedure on embargo.

When the director has embargoed an article, he or she shall, forthwith and without delay and in no event later than thirty days after the affixing of notice of its embargo, petition the superior court for an order

affirming the embargo. The court then has jurisdiction, for cause shown and after prompt hearing to any claimant of the embargoed article, to issue an order which directs the removal of the embargo or the destruction or the correction and release of the article. An order for destruction or correction and release shall contain such provision for the payment of pertinent court costs and fees and administrative expenses as is equitable and which the court deems appropriate in the circumstances. An order for correction and release may contain such provision for a bond as the court finds indicated in the circumstances.
[1991 c 162 § 4; 1983 c 95 § 8; 1945 c 257 § 30; Rem. Supp. 1945 § 6163-79.]

69.04.123
Exception to petition requirement under RCW 69.04.120.

The director need not petition the superior court as provided for in RCW 69.04.120 if the owner or claimant of such food or food products agrees in writing to the disposition of such food or food products as the director may order.
[1995 c 374 § 20.]
NOTES:
Effective date—1995 c 374 §§ 1-47, 50-53, and 59-68: See note following RCW 15.36.012.

69.04.130
Petitions may be consolidated.

Two or more petitions under RCW 69.04.120, which pend at the same time and which present the same issue and claimant hereunder, shall be consolidated for simultaneous determination by one court of jurisdiction, upon application to any court of jurisdiction by the director or by such claimant.
[1945 c 257 § 31; Rem. Supp. 1945 § 6163-80.]

69.04.140
Claimant entitled to sample.

The claimant in any proceeding by petition under RCW 69.04.120 shall be entitled to receive a representative sample of the article subject to such proceeding, upon application to the court of jurisdiction made at any time after such petition and prior to the hearing thereon.
[1945 c 257 § 32; Rem. Supp. 1945 § 6163-81.]

69.04.150
Damages not recoverable if probable cause existed.

No state court shall allow the recovery of damages from administrative action for condemnation under RCW 69.04.100 or for embargo under RCW 69.04.110, if the court finds that there was probable cause for such action.
[1945 c 257 § 33; Rem. Supp. 1945 § 6163-82.]

69.04.160

Prosecutions.

(1) It shall be the duty of each state attorney, county attorney, or city attorney to whom the director reports any violation of this chapter, or regulations promulgated under it, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of this chapter is reported by the director to any such attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the director, either orally or in writing, with regard to such contemplated proceeding.

[2012 c 117 § 331; 1945 c 257 § 34; Rem. Supp. 1945 § 6163-83.]

69.04.170

Minor infractions.

Nothing in this chapter shall be construed as requiring the director to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever he or she believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

[2012 c 117 § 332; 1945 c 257 § 35; Rem. Supp. 1945 § 6163-84.]

69.04.180

Proceedings to be in name of state.

All such proceedings for the enforcement, or to restrain violations, of this chapter shall be by and in the name of the state of Washington.

[1945 c 257 § 36; Rem. Supp. 1945 § 6163-85.]

69.04.190

Standards may be prescribed by regulations.

Whenever in the judgment of the director such action will promote honesty and fair dealing in the interest of consumers, he or she shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, a reasonable standard of quality, and/or reasonable standards of fill of container. In prescribing any standard of fill of container, consideration shall be given to and due allowance shall be made for product or volume shrinkage or expansion unavoidable in good commercial practice, and need for packing and protective material. In prescribing any standard of quality for any canned fruit or canned vegetable, consideration shall be given to and due allowance shall be made for the differing characteristics of the several varieties thereof. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the director shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label.

[2012 c 117 § 333; 1945 c 257 § 37; Rem. Supp. 1945 § 6163-86. Prior: 1917 c 168 § 2.]

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69.04.200
Conformance with federal standards.

The definitions and standards of identity, the standards of quality and fill of container, and the label requirements prescribed by regulations promulgated under *this section shall conform, insofar as practicable, with those prescribed by regulations promulgated under section 401 of the federal act and to the definitions and standards promulgated under the meat inspection act approved March 4, 1907, as amended.
[1945 c 257 § 38; Rem. Supp. 1945 § 6163-87.]
NOTES:

***Reviser's note:** The language "this section" appears in 1945 c 257 § 38 but apparently refers to 1945 c 257 § 37 codified as RCW 69.04.190.

69.04.205
Bacon—Packaging at retail to reveal quality and leanness.

All packaged bacon other than that packaged in cans shall be offered and exposed for sale and sold, within the state of Washington only at retail in packages which permit the buyer to readily view the quality and degree of leanness of the product.
[1971 c 49 § 1.]

69.04.206
Bacon—Rules, regulations, and standards—Withholding packaging use—Hearing—Final determination—Appeal.

The director of the department of agriculture is hereby authorized to promulgate rules, regulations, and standards for the implementation of RCW 69.04.205 through 69.04.207. If the director has reason to believe that any packaging method, package, or container in use or proposed for use with respect to the marketing of bacon is false or misleading in any particular, or does not meet the requirements of RCW 69.04.205, he or she may direct that such use be withheld unless the packaging method, package, or container is modified in such manner as he of [or] she may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the packaging method, package, or container does not accept the determination of the director such person, firm, or corporation may request a hearing, but the use of the packaging method, package, or container shall, if the director so directs, be withheld pending hearing and final determination by the director. Any such determination by the director shall be conclusive unless, within thirty days after receipt of notice of such final determination, the person, firm, or corporation adversely affected thereby appeals to a court of proper jurisdiction.
[2012 c 117 § 334; 1971 c 49 § 2.]

69.04.207

Bacon—Effective date.

RCW 69.04.205 through 69.04.207 shall take effect on January 1, 1972.
[1971 c 49 § 3.]

69.04.210

Food—Adulteration by poisonous or deleterious substance.

A food shall be deemed to be adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or

(2)(a) If it bears or contains any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive, or (iii) a color additive) which is unsafe within the meaning of RCW 69.04.390, or (b) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of RCW 69.04.392, or (c) if it is, or it bears or contains, any food additive which is unsafe within the meaning of RCW 69.04.394: PROVIDED, That where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under RCW 69.04.392 and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of RCW 69.04.390 and 69.04.394, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity; or

(3) If it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or

(4) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome, or injurious to health; or

(5) If it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter or which has been fed on the uncooked offal from a slaughterhouse; or

(6) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or

(7) If it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to RCW 69.04.394.
[1963 c 198 § 1; 1945 c 257 § 39; Rem. Supp. 1945 § 6163-88. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.220

Food—Adulteration by abstraction, addition, substitution, etc.

A food shall be deemed to be adulterated (1) if any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or

mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.
[1945 c 257 § 40; Rem. Supp. 1945 § 6163-89.]

69.04.231
Food—Adulteration by color additive.

A food shall be deemed to be adulterated if it is, or it bears or contains a color additive which is unsafe within the meaning of RCW 69.04.396.
[1963 c 198 § 5.]

69.04.240
Confectionery—Adulteration.

A food shall be deemed to be adulterated if it is confectionery and it bears or contains any alcohol from natural or artificial alcohol flavoring in excess of one percent of the weight of the confection or any nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one percent, natural gum, and pectin. This section shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances, or to any confection permitted to be sold by an endorsement from the *liquor control board under RCW 66.24.360.
[2007 c 226 § 3; 1984 c 78 § 2; 1945 c 257 § 42; Rem. Supp. 1945 § 6163-91. Prior: 1923 c 36 § 1, part; 1907 c 211 § 3, part.]
NOTES:

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Finding and declaration—Severability—1984 c 78: See notes following RCW 66.12.160.

69.04.245
Poultry—Improper use of state's geographic outline.

Uncooked poultry is deemed to be misbranded if it is produced outside of this state but the label for the poultry contains the geographic outline of this state.
[1989 c 257 § 2.]
NOTES:

Legislative findings—1989 c 257: "The legislature finds that: Poultry produced in this state is known throughout the state for its high quality; and one of the sources of that quality is the proximity of production centers to retail outlets in the state. The legislature also finds that labeling which misrepresents poultry produced elsewhere as being a product of this state may lead consumers to purchase products which they would not otherwise purchase. The legislature further finds that the presence of the geographic outline of this state on a label for poultry produced outside of the state misrepresents the product as having been produced in this state." [1989 c 257 § 1.]

69.04.250

Food—Misbranding by false label, etc.

A food shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if it is offered for sale under the name of another food; or (3) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; or (4) if its container is so made, formed or filled as to be misleading.
[1945 c 257 § 43; Rem. Supp. 1945 § 6163-92. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.260

Packaged food—Misbranding.

If a food is in package form, it shall be deemed to be misbranded, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director.
[1945 c 257 § 44; Rem. Supp. 1945 § 6163-93.]

69.04.270

Food—Misbranding by lack of prominent label.

A food shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
[1945 c 257 § 45; Rem. Supp. 1945 § 6163-94.]

69.04.280

Food—Misbranding for nonconformity with standard of identity.

If a food purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by RCW 69.04.190, it shall be deemed to be misbranded unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.
[1945 c 257 § 46; Rem. Supp. 1945 § 6163-95.]

69.04.290

Food—Misbranding for nonconformity with standard of quality.

If a food purports to be or is represented as a food for which a standard of quality has been prescribed by regulations as provided by RCW 69.04.190, and its quality falls below such standard, it shall be deemed to be misbranded unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard.
[1945 c 257 § 47; Rem. Supp. 1945 § 6163-96.]

69.04.300
Food—Misbranding for nonconformity with standard of fill.

If a food purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by regulations as provided by RCW 69.04.190, and it falls below the standard of fill of container applicable thereto, it shall be deemed to be misbranded unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.
[1945 c 257 § 48; Rem. Supp. 1945 § 6163-97.]

69.04.310
Food—Misbranding by failure to show usual name and ingredients.

If a food is not subject to the provisions of RCW 69.04.280, it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: PROVIDED, That, to the extent that compliance with the requirements of clause (2) of this section is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the director.
[1945 c 257 § 49; Rem. Supp. 1945 § 6163-98.]

69.04.320
Food—Misbranding by failure to show dietary properties.

If a food purports to be or is represented for special dietary uses, it shall be deemed to be misbranded, unless its label bears such information concerning its vitamin, mineral and other dietary properties as is necessary in order to fully inform purchasers as to its value for such uses, as provided by regulations promulgated by the director, such regulations to conform insofar as practicable with regulations under section 403(j) of the federal act.
[1945 c 257 § 50; Rem. Supp. 1945 § 6163-99.]

69.04.330
Food—Misbranding by failure to show artificial flavoring, coloring, etc.

If a food bears or contains any artificial flavoring, artificial coloring, or chemical preservative, it shall be deemed to be misbranded unless it bears labeling stating that fact: PROVIDED, That to the extent that compliance with the requirements of this section is impracticable, exemptions shall be established by regulations promulgated by the director. The provisions of this section and of RCW 69.04.280 and 69.04.310, with respect to artificial coloring, shall not apply in the case of butter, cheese, or ice cream.
[1945 c 257 § 51; Rem. Supp. 1945 § 6163-100.]

69.04.331
Popcorn sold by theaters or commercial food service establishments—Misbranded if the use of butter or ingredients of butter-like flavoring not disclosed.

(1) If a theater or other commercial food service establishment prepares and sells popcorn for human consumption, the establishment, at the point of sale, shall disclose by posting a sign in a conspicuous manner to prospective consumers a statement as to whether the butter or butter-like flavoring added to or attributed to the popcorn offered for sale is butter or is some other product. If the flavoring is some other product, the establishment shall also disclose the ingredients of the product.

The director of agriculture shall adopt rules prescribing the size and content of the sign upon which the disclosure is to be made. Any popcorn sold by or offered for sale by such an establishment to a consumer in violation of this section or the rules of the director implementing this section shall be deemed to be misbranded for the purposes of this chapter.

(2) The provisions of subsection (1) of this section do not apply to packaged popcorn labeled so as to disclose ingredients as required by law for prepackaged foods.

(3) For purposes of this section, "butter" is defined as the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter, and containing not less than eighty percent by weight or [of] milkfat, all tolerance having been allowed for.
[2012 c 25 § 1; 1986 c 203 § 17.]

NOTES:

Severability—1986 c 203: See note following RCW 15.17.230.

69.04.333
Poultry and poultry products—Label to indicate if product frozen.

It shall be unlawful for any person to sell at retail or display for sale at retail any poultry and poultry products, including turkey, which has been frozen at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such poultry or poultry product shall be sold unless in such a package or container bearing said label.
[1969 ex.s. c 194 § 1.]

69.04.334
Turkeys—Label requirement as to grading.

No person shall advertise for sale, sell, offer for sale or hold for sale in intrastate commerce any turkey that does not bear a label. Such label shall be properly displayed on the package if such turkey is prepackaged, or attached to the turkey if not prepackaged. Such label shall, if the turkey has been graded, state the name of the governmental agency, whether federal or state, and the grade. No turkey which has been graded may be labeled as being ungraded. Any advertisement in any media concerning the sale of turkeys shall state or set forth whether a turkey is ungraded or graded and the specific grade if graded.
[1969 ex.s. c 194 § 2.]

69.04.335
RCW 69.04.333 and 69.04.334 subject to enforcement and penalty provisions of chapter.

The provisions of this chapter shall be applicable to the enforcement of RCW 69.04.333 and 69.04.334 and any person violating the provisions of RCW 69.04.333 and 69.04.334 shall be subject to the applicable civil and criminal penalties for such violations as provided for in this chapter.
[1969 ex.s. c 194 § 3.]

69.04.340
Natural vitamin, mineral, or dietary properties need not be shown.

Nothing in this chapter shall be construed to require the labeling or advertising to indicate the natural vitamin, natural mineral, or other natural dietary properties of dairy products or other agricultural products when sold as food.
[1945 c 257 § 52; Rem. Supp. 1945 § 6163-101.]

69.04.345
Direct seller license.

(1) The department shall issue a license to operate as a direct seller to any entity that:

(a) Submits a completed application on forms approved by the department;

(b) Provides the department with a list of all leased, rented, or owned vehicles, other than vehicles that are rented for less than forty-five days, used by the applicant's business to deliver food;

(c) Maintains all records of vehicles that are rented for less than forty-five days for at least twelve months following the termination of the rental period;

(d) Maintains food temperature logs or uses a device to monitor the temperature of the packages in real time for all food while in transport; and

(e) Submits all appropriate fees to the department.

(2) The department shall develop, by rule, an annual license and renewal fee to defray the costs of administering the licensing and inspection program created by this section. All moneys received by the department under the provisions of this section must be paid into the food processing inspection account created in RCW 69.07.120 and must be used solely to carry out the provisions of this section.

(3)(a) A licensed direct seller is required to protect food from contamination while in transport. Food must be transported under conditions that protect food against physical, chemical, and microbial contamination, as well as against deterioration of the food and its container.

(b) Compliance with this subsection (3) requires, but is not limited to, the separation of raw materials in such a fashion that they avoid cross-contamination of other food products, particularly ready-to-eat food. An example of this principle includes ensuring that, during the transport of raw fish and seafood, meat, poultry, or other food which inherently contains pathogenic and spoilage microorganisms, soil, or other foreign material, the raw materials may not come into direct contact with other food in the same container or in any other cross-contaminating circumstance.

(4) In the event of a food recall or when required by the department, a federal, state, or local health authority in response to a foodborne illness outbreak, a licensed direct seller shall use its client listserv to notify customers of the recall and any other relevant information.

(5) In the implementation of this section, the department shall:

(a) Conduct inspections of vehicles, food handling areas, refrigeration equipment, and product packaging used by a licensed direct seller;

(b) Conduct audits of temperature logs and other food handling records as appropriate;

(c) Investigate any complaints against a licensed direct seller for the failure to maintain food safety; and

(d) Adopt rules, in consultation with the department of health and local health jurisdictions, necessary to administer and enforce the program consistent with federal regulations.

(6) Direct sellers that have a license from the department under this section are exempt from the permitting requirements of food service rules adopted by the state board of health and any local health jurisdiction.

(7) The director may deny, suspend, or revoke any license provided under this section if the director determines that an applicant or licensee has committed any of the following:

(a) Refused, neglected, or failed to comply with the provisions of this section, the rules and regulations adopted under this section, or any order of the director;

(b) Refused, neglected, or failed to keep and maintain records required by this chapter, or refused the department access to such records;

(c) Refused the department access to any portion or area of vehicles, food handling areas, or any other areas or facilities housing equipment or product packaging used by the direct retailer [direct seller] in the course of performing business responsibilities; or

(d) Failed to submit an application for a license meeting the requirements of this section or failed to pay the appropriate annual license or renewal fee.

(8) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Department" means the department of agriculture.

(b) "Direct seller" means an entity that receives prepackaged food from a food processor that is either licensed or inspected, or both, by a state or federal regulatory agency or the department and that delivers the food directly to consumers who only placed and paid for an order on the entity's web site, as long as:

(i) The food is delivered by the entity without opening the packaging and without dividing it into smaller packages;

(ii) There is no interim storage by the entity; and

(iii) The food is delivered by means of vehicles that are equipped with either refrigeration or freezer units, or both, and that meet the requirements of rules authorized by this chapter.

[2014 c 98 § 2.]

NOTES:

Findings—Intent—2014 c 98: "The legislature finds that the availability of affordable, fresh, and nourishing foods is essential for individuals to maintain a healthy lifestyle. The legislature also finds that new methods of purchasing and delivering fresh, nourishing foods are emerging and lowering the costs of these foods. The legislature further finds that some of the new business models for purchasing and delivering fresh,

nourishing foods are being inappropriately classified as food service establishments. Therefore, it is the intent of the legislature to establish a direct seller license for businesses that sell and collect payment only through a web site for prepackaged foods obtained from a food processor either licensed or inspected, or both, by a state or federal regulatory agency and that deliver the food directly to consumers without any interim storage."
[2014 c 98 § 1.]

69.04.350
Permits to manufacture or process certain foods.

Whenever the director finds after investigation that the distribution in intrastate commerce of any class of food may, by reason of contamination with micro-organisms during the manufacture, processing, or packing thereof in any locality, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered intrastate commerce, he or she then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, of permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into intrastate commerce, any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the director as provided by such regulations. Insofar as practicable, such regulations shall conform with, shall specify the conditions prescribed by, and shall remain in effect only so long as those promulgated under section 404(a) of the federal act.
[2012 c 117 § 335; 1945 c 257 § 53; Rem. Supp. 1945 § 6163-102.]

69.04.360
Suspension of permit.

The director is authorized to suspend immediately upon notice any permit issued under authority of *this section, if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the director shall, immediately after prompt hearing and an inspection of the factory or establishment, reinstate such permit, if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued or as amended.
[1945 c 257 § 54; Rem. Supp. 1945 § 6163-103.]
NOTES:

***Reviser's note:** The language "this section" appears in 1945 c 257 § 54 but apparently refers to 1945 c 257 § 53 codified as RCW 69.04.350.

69.04.370
Right of access for inspection.

Any officer or employee duly designated by the director shall have access to any factory or establishment, the operator of which holds a permit from the director, for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.
[1945 c 257 § 55; Rem. Supp. 1945 § 6163-104.]

69.04.380

Food exempt if in transit for completion purposes.

Food which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter.
[1945 c 257 § 56; Rem. Supp. 1945 § 6163-105.]

69.04.390

Regulations permitting tolerance of harmful matter.

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed unsafe for purposes of the application of RCW 69.04.210(2)(a); but when such substance is so required or cannot be so avoided, the director shall promulgate regulations limiting the quantity therein or thereon to such extent as he or she finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed unsafe for purposes of the application of RCW 69.04.210(2)(a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of RCW 69.04.210(1). In determining the quantity of such added substance to be tolerated in or on different articles of food, the director shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.
[2012 c 117 § 336; 1963 c 198 § 2; 1945 c 257 § 57; Rem. Supp. 1945 § 6163-106.]

69.04.392

Regulations permitting tolerance of harmful matter—Pesticide chemicals in or on raw agricultural commodities.

(1) Any poisonous or deleterious pesticide chemical, or any pesticide chemical which generally is recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as unsafe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purpose of the application of RCW 69.04.210(2)(a) unless:

(a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed pursuant to subsection (2) of this section and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or

(b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from the requirement of a tolerance pursuant to subsection (2) of this section.

While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of RCW 69.04.210(1).

(2) The regulations promulgated under section 408 of the federal food, drug and cosmetic act, as of July 1, 1975, setting forth the tolerances for pesticide chemicals in or on any raw agricultural commodity, are hereby adopted as the regulations for tolerances applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to such federal regulations for tolerances, including exemption from tolerance and zero tolerances, to the extent necessary to protect the public health. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein tolerances for pesticides, exemptions, and zero tolerances, upon his or her own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such regulation.

(3) In adopting any new or amended tolerances by regulation issued pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the necessity for the production of an adequate, wholesome, and economical food supply; (c) the other ways in which the consumer may be affected by the same pesticide chemical or by other related substances that are poisonous or deleterious; and (d) the opinion of experts qualified by scientific training and experience to determine the proper tolerance to be allowed for any pesticide chemical.

[2012 c 117 § 337; 1975 1st ex.s. c 7 § 26; 1963 c 198 § 3.]

NOTES:

Purpose of section: See RCW 69.04.398.

69.04.394

Regulations permitting tolerance of harmful matter—Food additives.

(1) A food additive shall, with respect to any particular use or intended use of such additives, be deemed unsafe for the purpose of the application of clause (2)(c) of RCW 69.04.210, unless:

(a) It and its use or intended use conform to the terms of an exemption granted, pursuant to a regulation under subsection (2) hereof providing for the exemption from the requirements of this section for any food additive, and any food bearing or containing such additive, intended solely for investigational use by qualified experts when in the director's opinion such exemption is consistent with the public health; or

(b) There is in effect, and it and its use or intended use are in conformity with a regulation issued or effective under subsection (2) hereof prescribing the conditions under which such additive may be safely used.

While such a regulation relating to a food additive is in effect, a food shall not, by reason of bearing or containing such an additive in accordance with the regulation, be considered adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 409 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the conditions under which such food additive may be safely used, are hereby adopted as the regulations applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe the conditions under which a food additive may be safely used and exemptions where such food additive is to be used solely for investigational purposes; either upon his or her own motion or upon the petition of any interested party requesting that such a regulation be established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect of such additive in the diet of human beings or animals, taking into account any chemically or pharmacologically related substance or substances in such diet; and (d) safety factors which in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives are generally recognized as appropriate for the use of animal experimentation data.

[2009 c 549 § 1021; 1975 1st ex.s. c 7 § 27; 1963 c 198 § 4.]

NOTES:

Purpose of section: See RCW 69.04.398.

69.04.396

Regulations permitting tolerance of harmful matter—Color additives.

(1) A color additive shall, with respect to any particular use (for which it is being used or intended to be used or is represented as suitable) in or on food, be deemed unsafe for the purpose of the application of RCW 69.04.231, unless:

(a) There is in effect, and such color additive and such use are in conformity with, a regulation issued under this section listing such additive for such use, including any provision of such regulation prescribing the conditions under which such additive may be safely used;

(b) Such additive and such use thereof conform to the terms of an exemption for experimental use which is in effect pursuant to regulation under this section.

While there are in effect regulations under this section relating to a color additive or an exemption with respect to such additive a food shall not, by reason of bearing or containing such additive in all respects in accordance with such regulations or such exemption, be considered adulterated within the meaning of clause (1) of RCW 69.04.210.

(2) The regulations promulgated under section 706 of the Federal Food, Drug and Cosmetic Act, as of July 1, 1975, prescribing the use or limited use of such color additive, are hereby adopted as the regulations applicable to this chapter: PROVIDED, That the director is hereby authorized to adopt by regulation any new or future amendments to the federal regulations. The director is also authorized to issue regulations in the absence of federal regulations and to prescribe therein the conditions under which a color additive may be safely used including exemptions for experimental purposes. Such a regulation may be issued either upon the director's own motion or upon the petition of any interested party requesting that such a regulation be

established. It shall be incumbent upon such petitioner to establish, by data submitted to the director, that a necessity exists for such regulation and that the effect of such a regulation will not be detrimental to the public health. If the data furnished by the petitioner is not sufficient to allow the director to determine whether such a regulation should be promulgated, the director may require additional data to be submitted and failure to comply with this request shall be sufficient grounds to deny the request of the petitioner for the issuance of such a regulation.

(3) In adopting any new or amended regulations pursuant to this section, the director shall give appropriate consideration, among other relevant factors, to the following: (a) The purpose of this chapter being to promote uniformity of state legislation with the federal act; (b) the probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food because of the use of the additive; (c) the cumulative effect, if any, of such additive in the diet of human beings or animals, taking into account the same or any chemically or pharmacologically related substance or substances in such diet; (d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of color additives for the use or uses for which the additive is proposed to be listed, are generally recognized as appropriate for the use of animal experimentation data; (e) the availability of any needed practicable methods of analysis for determining the identity and quantity of (i) the pure dye and all intermediates and other impurities contained in such color additives, (ii) such additive in or on any article of food, and (iii) any substance formed in or on such article because of the use of such additive; and (f) the conformity by the manufacturer with the established standards in the industry relating to the proper formation of such color additive so as to result in a finished product safe for use as a color additive.

[2009 c 549 § 1022; 1975 1st ex.s. c 7 § 28; 1963 c 198 § 6.]

NOTES:

Purpose of section: See RCW 69.04.398.

Food—Adulteration by color additive: RCW 69.04.231.

69.04.398

Purpose of RCW 69.04.110, 69.04.392, 69.04.394, 69.04.396—Uniformity with federal laws and regulations—Application to production of kosher food products—Adoption of rules.

(1) The purpose of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 is to promote uniformity of state legislation and rules with the Federal Food, Drug and Cosmetic Act 21 USC 301 et seq. and regulations adopted thereunder. In accord with such declared purpose any regulation adopted under said federal food, drug and cosmetic act concerning food in effect on July 1, 1975, and not adopted under any other specific provision of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 are hereby deemed to have been adopted under the provision hereof. Further, to promote such uniformity any regulation adopted hereafter under the provisions of the federal food, drug and cosmetic act concerning food and published in the federal register shall be deemed to have been adopted under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396 in accord with chapter 34.05 RCW as enacted or hereafter amended. The director may, however, within thirty days of the publication of the adoption of any such regulation under the federal food, drug and cosmetic act give public notice that a hearing will be held to determine if such regulation shall not be applicable under the provisions of RCW 69.04.110, 69.04.392, 69.04.394, and 69.04.396. Such hearing shall be in accord with the requirements of chapter 34.05 RCW as enacted or hereafter amended.

(2) The provisions of subsection (1) of this section do not apply to rules adopted by the director as necessary to permit the production of kosher food products as defined in RCW 69.90.010.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section the director may adopt rules necessary to carry out the provisions of this chapter.

[1991 c 162 § 5; 1986 c 203 § 18; 1975 1st ex.s. c 7 § 36.]

NOTES:

Severability—1986 c 203: See note following RCW 15.17.230.

69.04.400

Conformance with federal regulations.

The regulations promulgated under RCW 69.04.390 shall conform, insofar as practicable, with those promulgated under section 406 of the federal act.

[1963 c 198 § 7; 1945 c 257 § 58; Rem. Supp. 1945 § 6163-107.]

69.04.410

Drugs—Adulteration by harmful substances.

A drug or device shall be deemed to be adulterated (1) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health; or (3) if it is a drug and its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal tar color other than one that is harmless and suitable for use in drugs for such purposes, as provided by regulations promulgated under section 504 of the federal act.

[1945 c 257 § 59; Rem. Supp. 1945 § 6163-108. Prior: 1923 c 36 § 1; 1907 c 211 § 3; 1901 c 94 § 3.]

69.04.420

Drugs—Adulteration for failure to comply with compendium standard.

If a drug or device purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium, it shall be deemed to be adulterated. Such determination as to strength, quality or purity shall be made in accordance with the tests or methods of assay set forth in such compendium or prescribed by regulations promulgated under section 501(b) of the federal act. No drug defined in an official compendium shall be deemed to be adulterated under this section because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States and not to those of the United States pharmacopoeia.

[1945 c 257 § 60; Rem. Supp. 1945 § 6163-109.]

Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

69.04.430
Drugs—Adulteration for lack of represented purity or quality.

If a drug or device is not subject to the provisions of RCW 69.04.420 and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess, it shall be deemed to be adulterated.
[1945 c 257 § 61; Rem. Supp. 1945 § 6163-110.]

69.04.440
Drugs—Adulteration by admixture or substitution of ingredients.

A drug shall be deemed to be adulterated if any substance has been (1) mixed or packed therewith so as to reduce its quality or strength or (2) substituted wholly or in part therefor.
[1945 c 257 § 62; Rem. Supp. 1945 § 6163-111.]

69.04.450
Drugs—Misbranding by false labeling.

A drug or device shall be deemed to be misbranded if its labeling is false or misleading in any particular.
[1945 c 257 § 63; Rem. Supp. 1945 § 6163-112. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.460
Packaged drugs—Misbranding.

If a drug or device is in package form, it shall be deemed to be misbranded unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (2) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations promulgated by the director.
[1945 c 257 § 64; Rem. Supp. 1945 § 6163-113. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.470
Drugs—Misbranding by lack of prominent label.

A drug or device shall be deemed to be misbranded if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
[1945 c 257 § 65; Rem. Supp. 1945 § 6163-114. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.480

Drugs—Misbranding for failure to state content of habit forming drug.

A drug or device shall be deemed to be misbranded if it is for use by human beings and contains any quantity of the narcotic or hypnotic substance alpha eucaine, barbituric acid, beta eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphomethane; or any chemical derivative of such substance, which derivative has been designated as habit forming by regulations promulgated under section 502(d) of the federal act; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

[2009 c 549 § 1023; 1945 c 257 § 66; Rem. Supp. 1945 § 6163-115. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.490

Drugs—Misbranding by failure to show usual name and ingredients.

If a drug is not designated solely by a name recognized in an official compendium it shall be deemed to be misbranded unless its label bears (1) the common or usual name of the drug, if such there be; and (2), in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the quantity, kind, and proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamime, arsenic, digitalis, glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: PROVIDED, That to the extent that compliance with the requirements of clause (2) of this section is impracticable, exemptions shall be established by regulations promulgated by the director.

[1945 c 257 § 67; Rem. Supp. 1945 § 6163-116. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.500

Drugs—Misbranding by failure to give directions for use and warnings.

A drug or device shall be deemed to be misbranded unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: PROVIDED, That where any requirement of clause (1) of this section as applied to any drug or device, is not necessary for the protection of the public health, the director shall promulgate regulations exempting such drug or device from such requirements. Such regulations shall include the exemptions prescribed under section 502(f)(1) of the federal act, insofar as such exemptions are applicable hereunder.

[1945 c 257 § 68; Rem. Supp. 1945 § 6163-117. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.510

Drugs—Misbranding for improper packaging and labeling.

A drug or device shall be deemed to be misbranded if it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: PROVIDED, That the method of packing may be modified with the consent of the director, as permitted under section 502(g) of the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia.
[1945 c 257 § 69; Rem. Supp. 1945 § 6163-118. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.520

Drugs—Misbranding for failure to show possibility of deterioration.

If a drug or device has been found by the secretary of agriculture of the United States to be a drug liable to deterioration, it shall be deemed to be misbranded unless it is packaged in such form and manner, and its label bears a statement of such precautions, as required in an official compendium or by regulations promulgated under section 502(h) of the federal act for the protection of the public health.
[1945 c 257 § 70; Rem. Supp. 1945 § 6163-119. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.530

Drugs—Misbranding by misleading representation.

A drug shall be deemed to be misbranded if (1) its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug; or (4) if it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.
[1945 c 257 § 71; Rem. Supp. 1945 § 6163-120. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.540

Drugs—Misbranding by sale without prescription of drug requiring it.

A drug or device shall be deemed to be misbranded if it is a drug which by label provides, or which the federal act or any applicable law requires by label to provide, in effect, that it shall be used only upon the prescription of a physician, dentist, or veterinarian, unless it is dispensed at retail on a written prescription signed by a physician, dentist, or veterinarian, who is licensed by law to administer such a drug.
[1945 c 257 § 72; Rem. Supp. 1945 § 6163-121. Prior: 1923 c 36 § 2; 1907 c 211 § 4.]

69.04.550

Drugs exempt if in transit for completion purposes.

A drug or device which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling and packaging requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter.
[1945 c 257 § 73; Rem. Supp. 1945 § 6163-122.]

69.04.560

Dispensing of certain drugs exempt.

A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the requirements of RCW 69.04.450 through 69.04.540.
[1945 c 257 § 74; Rem. Supp. 1945 § 6163-123.]

69.04.565

DMSO (dimethyl sulfoxide) authorized.

Notwithstanding any other provision of state law, DMSO (dimethyl sulfoxide) may be introduced into intrastate commerce as long as (1) it is manufactured or distributed by persons licensed pursuant to chapter 18.64 RCW or chapter 18.92 RCW, and (2) it is used, or intended to be used, in the treatment of human beings or animals for any ailment or adverse condition: PROVIDED, That DMSO intended for topical application, consistent with rules governing purity and labeling promulgated by the pharmacy quality assurance commission, shall not be considered a legend drug and may be sold by any retailer.
[2013 c 19 § 50; 1981 c 50 § 1.]

NOTES:

DMSO use by health facilities, physicians: RCW 70.54.190.

69.04.570

Introduction of new drug.

No person shall introduce or deliver for introduction into intrastate commerce any new drug which is subject to section 505 of the federal act unless an application with respect to such drug has become effective thereunder. No person shall introduce or deliver for introduction into intrastate commerce any new drug which is not subject to section 505 of the federal act, unless (1) it has been found, by appropriate tests, that such drug is not unsafe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; and (2) an application has been filed under this section of this chapter with respect to such drug: PROVIDED, That the requirement of subsection (2) of this section shall not apply to any drug introduced into intrastate commerce at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act: PROVIDED FURTHER, That if the director finds that the

requirement of subsection (2) of this section as applied to any drug or class of drugs, is not necessary for the protection of the public health, he or she shall promulgate regulations of exemption accordingly.
[2012 c 117 § 338; 1945 c 257 § 75; Rem. Supp. 1945 § 6163-124.]

69.04.580
Application for introduction.

An application under RCW 69.04.570 shall be filed with the director, and subject to any waiver by the director, shall include (1) full reports of investigations which have been made to show whether or not the drug, subject to the application, is safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; (2) a full list of the articles used as components of such drug; (3) a full statement of the composition of such drug; (4) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (5) such samples of such drug and of the articles used as components thereof as the director may require; and (6) specimens of the labeling proposed to be used for such drug.
[1945 c 257 § 76; Rem. Supp. 1945 § 6163-125.]

69.04.590
Effective date of application.

An application filed under RCW 69.04.570 shall become effective on the sixtieth day after the filing thereof, unless the director (1) makes such application effective prior to such day; or (2) issues an order with respect to such application pursuant to RCW 69.04.600.
[1945 c 257 § 77; Rem. Supp. 1945 § 6163-126.]

69.04.600
Denial of application.

If the director finds, upon the basis of the information before him or her and after due notice and opportunity for hearing to the applicant, that the drug, subject to the application, is not safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, he or she shall, prior to such effective date, issue an order refusing to permit such application to become effective and stating the findings upon which it is based.
[2012 c 117 § 339; 1945 c 257 § 78; Rem. Supp. 1945 § 6163-127.]

69.04.610
Revocation of denial.

An order refusing to permit an application under RCW 69.04.570 to become effective may be suspended or revoked by the director, for cause and by order stating the findings upon which it is based.
[1945 c 257 § 79; Rem. Supp. 1945 § 6163-128.]

69.04.620

Service of order of denial.

Orders of the director issued under RCW 69.04.600 shall be served (1) in person by a duly authorized representative of the director or (2) by mailing the order by registered mail addressed to the applicant or respondent at his or her address last known to the director.
[2012 c 117 § 340; 1945 c 257 § 80; Rem. Supp. 1945 § 6163-129.]

69.04.630

Drug for investigational use exempt.

A drug shall be exempt from the operation of RCW 69.04.570 which is intended, and introduced or delivered for introduction into intrastate commerce, solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs and which is plainly labeled "For investigational use only."
[1945 c 257 § 81; Rem. Supp. 1945 § 6163-130.]

69.04.640

Court review of denial.

The superior court of Thurston county shall have jurisdiction to review and to affirm, modify, or set aside any order issued under RCW 69.04.600, upon petition seasonably made by the person to whom the order is addressed and after prompt hearing upon due notice to both parties.
[1945 c 257 § 82; Rem. Supp. 1945 § 6163-131.]

69.04.650

Dispensing of certain drugs exempt.

A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail) shall, if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian, be exempt from the operation of RCW 69.04.570 through 69.04.640.
[1945 c 257 § 83; Rem. Supp. 1945 § 6163-132.]

69.04.660

Federally licensed drugs exempt.

The provisions of RCW 69.04.570 shall not apply to any drug which is licensed under the federal virus, serum, and toxin act of July 1, 1902; or under the federal virus, serums, toxins, antitoxins, and analogous products act of March 4, 1913.
[1945 c 257 § 84; Rem. Supp. 1945 § 6163-133.]

69.04.670
Cosmetics—Adulteration by injurious substances.

A cosmetic shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof, or under such conditions of use as are customary or usual: PROVIDED, That this provision shall not apply to coal tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying direction should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness.", and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (5) the term "hair dye" shall not include eyelash dyes or eyebrow dyes; or (2) if it consists in whole or in part of any filthy, putrid, or decomposed substance; or (3) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health; or (4) if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or (5) if it is not a hair dye and it bears or contains a coal tar color other than one that is harmless and suitable for use in cosmetics, as provided by regulations promulgated under section 604 of the federal act.
[1945 c 257 § 85; Rem. Supp. 1945 § 6163-134.]

69.04.680
Cosmetics—Misbranding by false label, etc.

A cosmetic shall be deemed to be misbranded (1) if its labeling is false or misleading in any particular; or (2) if in package form, unless it bears a label containing (a) the name and place of business of the manufacturer, packer, or distributor; and (b) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: PROVIDED, That under clause (b) of this section reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the director.
[1945 c 257 § 86; Rem. Supp. 1945 § 6163-135.]

69.04.690
Cosmetics—Misbranding by lack of prominent label.

A cosmetic shall be deemed to be misbranded (1) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in

such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or (2) if its container is so made, formed, or filled as to be misleading.
[1945 c 257 § 87; Rem. Supp. 1945 § 6163-136.]

69.04.700
Cosmetics exempt if in transit for completion purposes.

A cosmetic which is, in accordance with the practice of the trade, to be processed, labeled, or repacked in substantial quantities at an establishment other than the establishment where it was originally processed or packed, is exempted from the affirmative labeling requirements of this chapter, while it is in transit in intrastate commerce from the one establishment to the other, if such transit is made in good faith for such completion purposes only; but it is otherwise subject to all the applicable provisions of this chapter.
[1945 c 257 § 88; Rem. Supp. 1945 § 6163-137.]

69.04.710
Advertisement, when deemed false.

An advertisement of a food, drug, device, or cosmetic shall be deemed to be false, if it is false or misleading in any particular.
[1945 c 257 § 89; Rem. Supp. 1945 § 6163-138.]

69.04.720
Advertising of cure of certain diseases deemed false.

The advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, *venereal disease, shall also be deemed to be false; except that no advertisement not in violation of RCW 69.04.710 shall be deemed to be false under this section if it is disseminated only to members of the medical, veterinary, dental, pharmacal, and other legally recognized professions dealing with the healing arts, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: PROVIDED, That whenever the director determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the director shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the director may deem necessary in the interest of public health: PROVIDED FURTHER, That this section shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.
[1945 c 257 § 90; Rem. Supp. 1945 § 6163-139.]

NOTES:

***Reviser's note:** The term "venereal disease" was changed to "sexually transmitted disease" by 1988 c 206.

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INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

69.04.730
Enforcement, where vested—Regulations.

The authority to promulgate regulations for the efficient enforcement of this chapter is hereby vested in the director: PROVIDED, HOWEVER, That the director shall designate the pharmacy quality assurance commission to carry out all the provisions of this chapter pertaining to drugs and cosmetics, with authority to promulgate regulations for the efficient enforcement thereof.
[2013 c 19 § 51; 1947 c 25 § 91 (passed notwithstanding veto); 1945 c 257 § 91 (vetoed); Rem. Supp. 1947 § 6163-139a.]

69.04.740
Regulations to conform with federal regulations.

The purpose of this chapter being to promote uniformity of state legislation with the federal act, the director is hereby authorized (1) to adopt, insofar as applicable, the regulations from time to time promulgated under the federal act; and (2) to make the regulations promulgated under this chapter conform, insofar as practicable, with those promulgated under the federal act.
[1945 c 257 § 92; Rem. Supp. 1945 § 6163-140.]

69.04.750
Hearings.

Hearings authorized or required by this chapter shall be conducted by the director or his or her duly authorized representative designated for the purpose.
[2012 c 117 § 341; 1945 c 257 § 93; Rem. Supp. 1945 § 6163-141.]

69.04.761
Hearing on proposed regulation—Procedure.

The director shall hold a public hearing upon a proposal to promulgate any new or amended regulation under this chapter. The procedure to be followed concerning such hearings shall comply in all respects with chapter 34.05 RCW (Administrative Procedure Act) as now enacted or hereafter amended.
[1963 c 198 § 13.]

69.04.770
Review on petition prior to effective date.

The director shall have jurisdiction to review and to affirm, modify, or set aside any order issued under *RCW 69.04.760, promulgating a new or amended regulation under this chapter, upon petition made at any time prior to the effective date of such regulation, by any person adversely affected by such order.

[1945 c 257 § 95; Rem. Supp. 1945 § 6163-143.]

NOTES:

***Reviser's note:** RCW 69.04.760 was repealed by 1963 c 198 § 15. Later enactment, see RCW 69.04.761.

69.04.780

Investigations—Samples—Right of entry—Verified statements.

The director shall cause the investigation and examination of food, drugs, devices, and cosmetics subject to this chapter. The director shall have the right (1) to take a sample or specimen of any such article, for examination under this chapter, upon tendering the market price therefor to the person having such article in custody; and (2) to enter any place or establishment within this state, at reasonable times, for the purpose of taking a sample or specimen of any such article, for such examination.

The director and the director's deputies, assistants, and inspectors are authorized to do all acts and things necessary to carry out the provisions of this chapter, including the taking of verified statements. Such department personnel are empowered to administer oaths of verification on the statements.

[1991 c 162 § 6; 1945 c 257 § 96; Rem. Supp. 1945 § 6163-144.]

69.04.790

Owner may obtain part of sample.

Where a sample or specimen of any such article is taken for examination under this chapter, the director shall, upon request, provide a part thereof for examination by any person named on the label of such article, or the owner thereof, or his or her attorney or agent; except that the director is authorized, by regulation, to make such reasonable exceptions from, and to impose such reasonable terms and conditions relating to, the operation of this section as he or she finds necessary for the proper administration of the provisions of this chapter.

[2012 c 117 § 342; 1945 c 257 § 97; Rem. Supp. 1945 § 6163-145.]

69.04.800

Access to records of other agencies.

For the purpose of enforcing the provisions of this chapter, pertinent records of any administrative agency of the state government shall be open to inspection by the director.

[1945 c 257 § 98; Rem. Supp. 1945 § 6163-146.]

69.04.810

Access to records of intrastate carriers.

For the purpose of enforcing the provisions of this chapter, carriers engaged in intrastate commerce, and persons receiving food, drugs, devices, or cosmetics in intrastate commerce or holding such articles so received, shall, upon the request of the director, permit the director at reasonable times, to have access to and to copy all records showing the movement in intrastate commerce of any food, drug, device, or cosmetic, or

the holding thereof during or after such movement, and the quantity, shipper, and consignee thereof; and it shall be unlawful for any such carrier or person to fail to permit such access to and the copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of food, drug, device, or cosmetic to which such request relates: PROVIDED, That evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained: PROVIDED FURTHER, That except for violations of RCW 69.04.955, penalties levied under RCW 69.04.980, the requirements of RCW 69.04.950 through 69.04.980, and the requirements of this section, carriers shall not be subject to the other provisions of this chapter by reason of their receipt, carriage, holding, or delivery of food, drugs, devices, or cosmetics in the usual course of business as carriers.
[1990 c 202 § 9; 1945 c 257 § 99; Rem. Supp. 1945 § 6163-147.]

69.04.820
Right of entry to factories, warehouses, vehicles, etc.

For the purpose of enforcing the provisions of this chapter, the director is authorized (1) to enter, at reasonable times, any factory, warehouse, or establishment subject to this chapter, or to enter any vehicle being used to transport or hold food, drugs, devices, or cosmetics in intrastate commerce; and (2) to inspect, at reasonable times, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, labeling, and advertisements therein.
[1945 c 257 § 100; Rem. Supp. 1945 § 6163-148.]

69.04.830
Publication of reports of judgments, orders and decrees.

The director may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and the disposition thereof.
[1945 c 257 § 101; Rem. Supp. 1945 § 6163-149.]

69.04.840
Dissemination of information.

The director may cause to be disseminated information regarding food, drugs, devices, or cosmetics in situations involving, in the opinion of the director, imminent danger to health or gross deception of, or fraud upon, the consumer. Nothing in this section shall be construed to prohibit the director from collecting, reporting, and illustrating the results of his or her examinations and investigations under this chapter.
[2012 c 117 § 343; 1945 c 257 § 102; Rem. Supp. 1945 § 6163-150.]

69.04.845
Severability—1945 c 257.

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby.
[1945 c 257 § 103; Rem. Supp. 1945 § 6163-151.]

69.04.850
Construction—1945 c 257.

This chapter and the regulations promulgated hereunder shall be so interpreted and construed as to effectuate its general purpose to secure uniformity with federal acts and regulations relating to adulterating, misbranding and false advertising of food, drugs, devices, and cosmetics.
[1945 c 257 § 104; Rem. Supp. 1945 § 6163-152.]

69.04.860
Effective date of chapter—1945 c 257.

This chapter shall take effect ninety days after the date of its enactment, and all state laws or parts of laws in conflict with this chapter are then repealed: PROVIDED, That the provisions of section 91 shall become effective on the enactment of this chapter, and thereafter the director is hereby authorized to conduct hearings and to promulgate regulations which shall become effective on or after the effective date of this chapter as the director shall direct: PROVIDED FURTHER, That all other provisions of this chapter to the extent that they may relate to the enforcement of such sections, shall take effect on the date of the enactment of this chapter.
[1945 c 257 § 105; Rem. Supp. 1945 § 6163-153.]
NOTES:

Reviser's note: 1945 c 257 § 91 referred to herein was vetoed by the governor but was subsequently reenacted as 1947 c 25 notwithstanding the veto. Section 91 is codified as RCW 69.04.730. For effective date of section 91 see preface 1947 session laws.

69.04.870
Short title.

This chapter may be cited as the Uniform Washington Food, Drug, and Cosmetic Act.
[1945 c 257 § 1; Rem. Supp. 1945 § 6163-50.]

69.04.880
Civil penalty.

Whenever the director finds that a person has committed a violation of a provision of this chapter, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each and every such violation shall be a separate and distinct offense. Imposition of the civil penalty shall be subject to a hearing in conformance with chapter 34.05 RCW.
[1991 c 162 § 2.]

Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

69.04.900
Perishable packaged food—Pull date labeling—Definitions.

For the purpose of RCW 69.04.900 through 69.04.920:

(1) "Perishable packaged food goods" means and includes all foods and beverages, except alcoholic beverages, frozen foods, fresh meat, poultry and fish and a raw agricultural commodity as defined in this chapter, intended for human consumption which are canned, bottled, or packaged other than at the time and point of retail sale, which have a high risk of spoilage within a period of thirty days, and as determined by the director of the department of agriculture by rule and regulation to be perishable.

(2) "Pull date" means the latest date a packaged food product shall be offered for sale to the public.

(3) "Shelf life" means the length of time during which a packaged food product will retain its safe consumption quality if stored under proper temperature conditions.

(4) "Fish" as used in subsection (1) of this section shall mean any water breathing animals, including, but not limited to, shellfish such as lobster, clams, crab, or other mollusca which are prepared, processed, sold, or intended or offered for sale.

[1974 ex.s. c 57 § 1; 1973 1st ex.s. c 112 § 1.]

69.04.905
Perishable packaged food—Pull date labeling—Required.

All perishable packaged food goods with a projected shelf life of thirty days or less, which are offered for sale to the public after January 1, 1974 shall state on the package the pull date. The pull date must be stated in day, and month and be in a style and format that is readily decipherable by consumers: PROVIDED, That the director of the department of agriculture may exclude the monthly requirement on the pull date for perishable packaged food goods which have a shelf life of seven days or less. No perishable packaged food goods shall be offered for sale after the pull date, except as provided in RCW 69.04.910.

[1974 ex.s. c 57 § 2; 1973 1st ex.s. c 112 § 2.]

69.04.910
Perishable packaged food—Pull date labeling—Selling or trading goods beyond pull date—Repackaging to substitute for original date—Exception.

No person shall sell, trade or barter any perishable packaged food goods beyond the pull date appearing thereon, nor shall any person rewrap or repackage any packaged perishable food goods with the intention of placing a pull date thereon which is different from the original: PROVIDED, HOWEVER, That those packaged perishable food goods whose pull dates have expired may be sold if they are still wholesome and are without danger to health, and are clearly identified as having passed the pull date.

[1973 1st ex.s. c 112 § 3.]

69.04.915

Perishable packaged food—Pull date labeling—Storage—Rules and regulations.

The director of the department of agriculture shall by rule and regulation establish uniform standards for pull date labeling, and optimum storage conditions of perishable packaged food goods. In addition to his or her other duties, the director, in consultation with the secretary of the department of health where appropriate, may promulgate such other rules and regulations as may be necessary to carry out the purposes of RCW 69.04.900 through 69.04.920.

[2012 c 117 § 344; 1989 1st ex.s. c 9 § 225; 1973 1st ex.s. c 112 § 4.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.04.920

Perishable packaged food—Pull date labeling—Penalties.

Any person convicted of a violation of RCW 69.04.905 or 69.04.910 shall be punishable by a fine not to exceed five hundred dollars.

[1973 1st ex.s. c 112 § 5.]

69.04.928

Seafood labeling requirements—Pamphlet.

The department of agriculture may:

(1) Develop a pamphlet that generally describes the labeling requirements for seafood as set forth in this chapter;

(2) Provide to the department of fish and wildlife a web site link to the pamphlet; and

(3) Make the pamphlet available to holders of any license associated with buying and selling fish or shellfish under chapter 77.65 RCW.

[2013 c 290 § 2; 2002 c 301 § 11.]

NOTES:

Finding—Effective date—2002 c 301: See notes following RCW 77.65.510.

69.04.930

Frozen fish and meat—Labeling requirements—Exceptions.

It shall be unlawful for any person to sell at retail or display for sale at retail any food fish as defined in RCW 77.08.022 or shellfish as defined in RCW 77.08.010, any meat, or any meat food product which has been frozen at any time, without having the package or container in which the same is sold bear a label clearly discernible to a customer that such product has been frozen and whether or not the same has since been thawed. No such food fish or shellfish, meat or meat food product shall be sold unless in such a package or container bearing said label: PROVIDED, That this section shall not include any of the aforementioned food or food products that have been frozen prior to being smoked, cured, cooked or subjected to the heat of commercial sterilization.

[2003 c 39 § 28; 1999 c 291 § 32; 1988 c 254 § 8; 1983 1st ex.s. c 46 § 179; 1975 c 39 § 1.]

Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

69.04.932
Definitions.

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

(1) "Commercially caught" means wild or hatchery-raised salmon harvested in the wild by commercial fishers. The term does not apply to farmed fish raised exclusively by private sector aquaculture.

(2) "Food fish" means fresh or saltwater finfish and other forms of aquatic animal life other than crustaceans, mollusks, birds, and mammals where the animal life is intended for human consumption.

(3) "Salmon" means all species of the genus Oncorhynchus, except those classified as game fish in RCW 77.08.020, and includes:

SCIENTIFIC NAME	COMMON NAME
Oncorhynchus tshawytscha	Chinook salmon or king salmon
Oncorhynchus kisutch	Coho salmon or silver salmon
Oncorhynchus keta	Chum or "keta" salmon
Oncorhynchus gorbuscha	Pink salmon
Oncorhynchus nerka	Sockeye or "red" salmon
Salmo salar (in other than its landlocked form)	Atlantic salmon

(4) "Shellfish" means crustaceans and all mollusks where the animal life is intended for human consumption.

[2013 c 290 § 3; 1993 c 282 § 2.]

NOTES:

Finding—1993 c 282: "The legislature finds that salmon consumers in Washington benefit from knowing the species and origin of the salmon they purchase. The accurate identification of such species, as well as knowledge of the country or state of origin and of whether they were caught commercially or were farm-raised, is important to consumers." [1993 c 282 § 1.]

69.04.933
Food fish and shellfish labeling—Identification of species—Exceptions—Penalty.

(1) It is unlawful to knowingly sell or offer for sale at wholesale or retail any fresh, frozen, or processed food fish or shellfish without identifying for the buyer at the point of sale the species of food fish or shellfish by its common name, such that the buyer can make an informed purchasing decision for his or her protection, health, and safety.

(2) It is unlawful to knowingly label or offer for sale any food fish designated as halibut, with or without additional descriptive words, unless the food fish product is *Hippoglossus hippoglossus* or *Hippoglossus stenolepsis*.

(3) This section does not apply to salmon that is minced, pulverized, coated with batter, or breaded.

(4) This section does not apply to a commercial fisher properly licensed under chapter 77.65 RCW and engaged in sales of fish to a fish buyer.

(5) A violation of this section constitutes misbranding under RCW 69.04.938 and is punishable as a misdemeanor, gross misdemeanor, or felony depending on the fair market value of the fish or shellfish involved in the violation.

(6)(a) The common names for salmon species are as listed in RCW 69.04.932.

(b) The common names for all other food fish and shellfish are the common names for food fish and shellfish species as defined by rule of the director. If the common name for a species is not defined by rule of the director, then the common name is the acceptable market name or common name as provided in the United States food and drug administration's publication "Seafood list - FDA's guide to acceptable market names for seafood sold in interstate commerce," as the publication existed on the effective date of this section.

(7) For the purposes of this section, "processed" means food fish or shellfish processed by heat for human consumption, such as food fish or shellfish that is kippered, smoked, boiled, canned, cleaned, portioned, or prepared for sale or attempted sale for human consumption.

(8) Nothing in this section precludes using additional descriptive language or trade names to describe food fish or shellfish as long as the labeling requirements in this section are met.

[2013 c 290 § 4; 1993 c 282 § 3.]

NOTES:

Finding—1993 c 282: See note following RCW 69.04.932.

69.04.934

Salmon labeling—Identification as farm-raised or commercially caught—Exceptions—Penalty.

(1) It is unlawful to knowingly sell or offer for sale at wholesale or retail any fresh, frozen, or processed salmon without identifying private sector cultured aquatic salmon or salmon products as farm-raised salmon, or identifying commercially caught salmon or salmon products as commercially caught salmon.

(2) Identification of the products under subsection (1) of this section must be made to the buyer at the point of sale such that the buyer can make an informed purchasing decision for his or her protection, health, and safety.

(3) A violation of this section constitutes misbranding under RCW 69.04.938 and is punishable as a misdemeanor, gross misdemeanor, or felony depending on the fair market value of the fish or shellfish involved in the violation.

(4) This section does not apply to salmon that is minced, pulverized, coated with batter, or breaded.

(5) This section does not apply to a commercial fisher properly licensed under chapter 77.65 RCW and lawfully engaged in the sale of fish to a fish buyer.

(6) Nothing in this section precludes using additional descriptive language or trade names to describe food fish or shellfish as long as the labeling requirements of this section are met.

[2013 c 290 § 5; 2003 c 39 § 29; 1993 c 282 § 4.]

NOTES:

Finding—1993 c 282: See note following RCW 69.04.932.

69.04.935

Salmon labeling—Rules for identification and enforcement.

To promote honesty and fair dealing for consumers and to protect public health and safety, the director, in consultation with the director of the department of fish and wildlife, may adopt rules as necessary to:

(1) Establish and implement a reasonable definition and identification standard for species of food fish and shellfish that are sold for human consumption;

(2) Provide procedures for enforcing this chapter's food fish and shellfish labeling requirements and misbranding prohibitions.

[2013 c 290 § 6; 1994 c 264 § 39; 1993 c 282 § 5.]

Chapter 69.04 RCW
INTRASTATE COMMERCE IN FOOD, DRUGS, AND COSMETICS
(Formerly Food, drug, and cosmetic act)

NOTES:

Finding—1993 c 282: See note following RCW 69.04.932.

69.04.938
Misbranding of food fish or shellfish—Penalties.

(1) A person is guilty of unlawful misbranding of food fish or shellfish in the third degree if the person commits an act that violates RCW 69.04.933 or 69.04.934, and the misbranding involves food fish or shellfish with a fair market value up to five hundred dollars. Unlawful misbranding of food fish or shellfish in the third degree is a misdemeanor.

(2) A person is guilty of unlawful misbranding of food fish or shellfish in the second degree if the person commits an act that violates RCW 69.04.933 or 69.04.934, and the misbranding involves food fish or shellfish with a fair market value of five hundred dollars or more, up to five thousand dollars. Unlawful misbranding of food fish or shellfish in the second degree is a gross misdemeanor.

(3) A person is guilty of unlawful misbranding of food fish or shellfish in the first degree if the person commits an act that violates RCW 69.04.933 or 69.04.934, and the misbranding involves food fish or shellfish with a fair market value of five thousand dollars or more. Unlawful misbranding of food fish or shellfish in the first degree is a class C felony.

[2013 c 290 § 7.]

69.04.940
Imported lamb products—Labeling requirements.

All retail sales of fresh or frozen lamb products which are imported from another country shall be labelled with the country of origin. For the purposes of this section "imported lamb products" shall include but not be limited to, live lambs imported from another country but slaughtered in the United States.

[1987 c 393 § 25.]

69.04.950
Transport of bulk foods—Definitions.

The definitions in this section apply throughout RCW 69.04.950 through 69.04.980:

(1) "Food" means: (a) Any article used for food or drink for humans or used as a component of such an article; or (b) a food grade substance.

(2) "Food grade substance" means a substance which satisfies the requirements of the federal food, drug, and cosmetic act, meat inspection act, and poultry products act and rules promulgated thereunder as materials approved by the federal food and drug administration, United States department of agriculture, or United States environmental protection agency for use: (a) As an additive in food or drink for human consumption, (b) in sanitizing food or drink for human consumption, (c) in processing food or drink for human consumption, or (d) in maintaining equipment with food contact surfaces during which maintenance the substance is expected to come in contact with food or drink for human consumption.

(3) "In bulk form" means a food or substance which is not packaged or contained by anything other than the cargo carrying portion of the vehicle or vessel.

(4) "Vehicle or vessel" means a commercial vehicle or commercial vessel which has a gross weight of more than ten thousand pounds, is used to transport property, and is a motor vehicle, motor truck, trailer, railroad car, or vessel.

[1990 c 202 § 1.]

NOTES:

Advisory committee—Report—1990 c 202: "The director of agriculture and the secretary of health shall examine, in consultation with an industry advisory committee, the potential hazards that may be posed to the public health by the transportation of food in other than bulk form in intrastate commerce. The director and secretary shall report the findings to the legislature by January 1, 1992, concerning the extent of the potential hazards, the frequency of mixed shipments of packaged food and nonfood items, the manner in which mixed shipments of packaged food and nonfood items are transported, and the incidents of food contamination in Washington state within the past five years. The findings shall include recommendations, if any, for regulating the transportation of food in other than bulk form.

The director and the secretary shall establish an industry advisory committee to provide advice regarding the examination required by this section. The director and the secretary shall jointly appoint not less than nine persons to the committee. These persons shall be representatives from the manufacturing, processing, wholesaling, distributing, and retailing sectors of the food industry." [1990 c 202 § 8.]

69.04.955

Transport of bulk foods—Prohibitions—Exemption.

(1) Except as provided in RCW 69.04.965 and 69.04.975, no person may transport in intrastate commerce food in bulk form in the cargo carrying portion of a vehicle or vessel that has been used for transporting in bulk form a cargo other than food.

(2) No person may transport in intrastate commerce food in bulk form in the cargo carrying portion of a vehicle or vessel unless the vehicle or vessel is marked "Food or Food Compatible Only" in conformance with rules adopted under RCW 69.04.960.

(3) No person may transport in intrastate commerce a substance in bulk form other than food or a substance on a list adopted under RCW 69.04.960 in the cargo carrying portion of a vehicle or vessel marked "Food or Food Compatible Only."

(4) This section does not apply to the transportation of a raw agricultural commodity from the point of its production to the facility at which the commodity is first processed or packaged.

[1990 c 202 § 2.]

69.04.960

Transport of bulk foods—Compatible substances—Cleaning vehicle or vessel—Vehicle or vessel marking.

(1) The director of agriculture and the secretary of health shall jointly adopt by rule:

(a) A list of food compatible substances other than food that may be transported in bulk form as cargo in a vehicle or vessel that is also used, on separate occasions, to transport food in bulk form as cargo. The list shall contain those substances that the director and the secretary determine will not pose a health hazard if food in bulk form were transported in the vehicle or vessel after it transported the substance. In making this

determination, the director and the secretary shall assume that some residual portion of the substance will remain in the cargo carrying portion of the vehicle or vessel when the food is transported;

(b) The procedures to be used to clean the vehicle or vessel after transporting the substance and prior to transporting the food;

(c) The form of the certificates to be used under RCW 69.04.965; and

(d) Requirements for the "Food or Food Compatible Only" marking which must be borne by a vehicle or vessel under RCW 69.04.955 or 69.04.965.

(2) In developing and adopting rules under this section and RCW 69.04.970, the director and the secretary shall consult with the secretary of transportation, the chief of the state patrol, the chair of the utilities and transportation commission, and representatives of the vehicle and vessel transportation industries, food processors, and agricultural commodity organizations.
[1990 c 202 § 3.]

69.04.965
Transport of bulk foods—Transports not constituting violations.

Transporting food as cargo in bulk form in intrastate commerce in a vehicle or vessel that has previously been used to transport in bulk form a cargo other than food does not constitute a violation of RCW 69.04.955 if:

(1) The cargo is a food compatible substance contained on the list adopted by the director and secretary under RCW 69.04.960;

(2) The vehicle or vessel has been cleaned as required by the rules adopted under RCW 69.04.960;

(3) The vehicle or vessel is marked "Food or Food Compatible" in conformance with rules adopted under RCW 69.04.960; and

(4) A certificate accompanies the vehicle or vessel when the food is transported by other than railroad car which attests, under penalty of perjury, to the fact that the vehicle or vessel has been cleaned as required by those rules and is dated and signed by the party responsible for that cleaning. Such certificates shall be maintained by the owner of the vehicle or vessel for not less than three years and shall be available for inspection concerning compliance with RCW 69.04.950 through 69.04.980. The director of agriculture and the secretary of health shall jointly adopt rules requiring such certificates for the transportation of food under this section by railroad car and requiring such certificates to be available for inspection concerning compliance with RCW 69.04.950 through 69.04.980. Forms for the certificates shall be provided by the department of agriculture.
[1990 c 202 § 4.]

69.04.970
Transport of bulk foods—Substances rendering vehicle or vessel permanently unsuitable for bulk food transport—Procedures to rehabilitate vehicles and vessels.

The director of agriculture and the secretary of health shall jointly adopt by rule:

(1) A list of substances which, if transported in bulk form in the cargo carrying portion of a vehicle or vessel, render the vehicle or vessel permanently unsuitable for use in transporting food in bulk form because

the prospect that any residue might be present in the vehicle or vessel when it transports food poses a hazard to the public health; and

(2) Procedures to be used to rehabilitate a vehicle or vessel that has been used to transport a substance other than a substance contained on a list adopted under RCW 69.04.960 or under subsection (1) of this section. The procedures shall ensure that transporting food in the cargo carrying portion of the vehicle or vessel after its rehabilitation will not pose a health hazard.

[1990 c 202 § 5.]

69.04.975

Transport of bulk foods—Rehabilitation of vehicles and vessels—Inspection—Certification—Marking—Costs.

A vehicle or vessel that has been used to transport a substance other than food or a substance contained on the lists adopted by the director and secretary under RCW 69.04.960 and 69.04.970, may be rehabilitated and used to transport food only if:

(1) The vehicle or vessel is rehabilitated in accordance with the procedures established by the director and secretary in RCW 69.04.970;

(2) The vehicle or vessel is inspected by the department of agriculture, and the department determines that transporting food in the cargo carrying portion of the vehicle or vessel will not pose a health hazard;

(3) A certificate accompanies the vehicle or vessel certifying that the vehicle or vessel has been rehabilitated and inspected and is authorized to transport food, and is dated and signed by the director of agriculture, or an authorized agent of the director. Such certificates shall be maintained for the life of the vehicle by the owner of the vehicle or vessel, and shall be available for inspection concerning compliance with RCW 69.04.950 through 69.04.980. Forms for the certificates shall be provided by the department of agriculture; and

(4) The vehicle or vessel is marked as required by RCW 69.04.955 or is marked and satisfies the requirements of RCW 69.04.965 which are not inconsistent with the rehabilitation authorized by this section.

No vehicle or vessel that has transported in bulk form a substance contained on the list adopted under RCW 69.04.970 qualifies for rehabilitation.

The cost of rehabilitation shall be borne by the vehicle or vessel owner. The director shall determine a reasonable fee to be imposed on the vehicle or vessel owner based on inspection, laboratory, and administrative costs incurred by the department in rehabilitating the vehicle or vessel.

[1990 c 202 § 6.]

69.04.980

Transport of bulk foods—Penalties.

A person who knowingly transports a cargo in violation of RCW 69.04.955 or who knowingly causes a cargo to be transported in violation of RCW 69.04.955 is subject to a civil penalty, as determined by the director of agriculture, for each such violation as follows:

(1) For a person's first violation or first violation in a period of five years, not more than five thousand dollars;

(2) For a person's second or subsequent violation within five years of a previous violation, not more than ten thousand dollars.

The director shall impose the penalty by an order which is subject to the provisions of chapter 34.05 RCW.

The director shall, wherever practical, secure the assistance of other public agencies, including but not limited to the department of health, the utilities and transportation commission, and the state patrol, in identifying and investigating potential violations of RCW 69.04.955.
[1990 c 202 § 7.]

Chapter 69.36 RCW

WASHINGTON CAUSTIC POISON ACT OF 1929

Sections

69.36.010 Definitions.
69.36.020 Misbranded sales, etc., prohibited—Exceptions.
69.36.030 Condemnation of misbranded packages.
69.36.040 Enforcement—Approval of labels.
69.36.050 Duty to prosecute.
69.36.060 Penalty.
69.36.070 Short title.

NOTES:

Highway transportation of poisons, corrosives, etc.: RCW 46.48.170, 46.48.175.

69.36.010
Definitions.

In this chapter, unless the context or subject matter otherwise requires:

(1) The term "dangerous caustic or corrosive substance" means each and all of the acids, alkalis, and substances named below: (a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of ten percent or more; (b) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H_2SO_4) in concentration of ten percent or more; (c) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five percent or more; (d) carbolic acid (C_6H_5OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of five percent or more; (e) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of ten percent or more; (f) any salt of oxalic acid and any preparation containing any such salt in a concentration of ten percent or more; (g) acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of twenty percent or more; (h) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten percent or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime; (i) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten percent or more; (j) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten percent or more; (k) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of five percent or more; and (l) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn", in a concentration of five percent or more.

(2) The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (a) the name of the article; (b) the name and place of business of the manufacturer, packer, seller, or distributor; (c) the word "POISON," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than twenty-four point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and (d) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance; PROVIDED, That such directions need not appear on labels or stickers on parcels, packages, or

containers at the time of shipment or of delivery for shipment by manufacturers or wholesalers for other than household use. PROVIDED FURTHER, That this chapter is not to be construed as applying to any substance subject to the chapter, sold at wholesale or retail for use by a retail druggist in filling prescriptions or in dispensing, in pursuance of a prescription by a physician, dentist, or veterinarian; or for use by or under the direction of a physician, dentist, or veterinarian; or for use by a chemist in the practice or teaching of his or her profession; or for any industrial or professional use, or for use in any of the arts and sciences.
[2012 c 117 § 362; 1929 c 82 § 1; RRS § 2508-1. Formerly RCW 69.36.010 and 69.36.020, part.]

69.36.020
Misbranded sales, etc., prohibited—Exceptions.

No person shall sell, barter, or exchange, or receive, hold, pack, display, or offer for sale, barter, or exchange, in this state any dangerous caustic or corrosive substance in a misbranded parcel, package, or container, said parcel, package, or container being designed for household use; PROVIDED, That household products for cleaning and washing purposes, subject to this chapter and labeled in accordance therewith, may be sold, offered for sale, held for sale, and distributed in this state by any dealer, wholesale or retail; PROVIDED FURTHER, That no person shall be liable to prosecution and conviction under this chapter when he or she establishes a guaranty bearing the signature and address of a vendor residing in the United States from whom he or she purchased the dangerous caustic or corrosive substance, to the effect that such substance is not misbranded within the meaning of this chapter. No person in this state shall give any such guaranty when such dangerous caustic or corrosive substance is in fact misbranded within the meaning of this chapter.
[2012 c 117 § 363; 1929 c 82 § 2; RRS § 2508-2. FORMER PART OF SECTION: 1929 c 82 § 1 now codified in RCW 69.32.010.]

69.36.030
Condemnation of misbranded packages.

Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use, that is being sold, bartered, or exchanged, or held, displayed, or offered for sale, barter, or exchange, shall be liable to be proceeded against in any superior court within the jurisdiction of which the same is found and seized for confiscation, and if such substance is condemned as misbranded, by said court, it shall be disposed of by destruction or sale, as the court may direct; and if sold, the proceeds, less the actual costs and charges, shall be paid over to the state treasurer; but such substance shall not be sold contrary to the laws of the state: PROVIDED, HOWEVER, That upon the payment of the costs of such proceedings and the execution and delivery of a good and sufficient bond to the effect that such substance will not be unlawfully sold or otherwise disposed of, the court may by order direct that such substance be delivered to the owner thereof. Such condemnation proceedings shall conform as near as may be to proceedings in the seizure, and condemnation of substances unfit for human consumption.
[1929 c 82 § 3; RRS § 2508-3.]

69.36.040
Enforcement—Approval of labels.

The director of agriculture shall enforce the provisions of this chapter, and he or she is hereby authorized and empowered to approve and register such brands and labels intended for use under the provisions of this

chapter as may be submitted to him or her for that purpose and as may in his or her judgment conform to the requirements of this statute: PROVIDED, HOWEVER, That in any prosecution under this chapter the fact that any brand or label involved in said prosecution has not been submitted to said director for approval, or if submitted, has not been approved by him or her, shall be immaterial.
[2012 c 117 § 364; 1929 c 82 § 5; RRS § 2508-5.]

69.36.050
Duty to prosecute.

Every prosecuting attorney to whom there is presented, or who in any way procures, satisfactory evidence of any violation of the provisions of this chapter shall cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such cases herein provided.
[1929 c 82 § 6; RRS § 2508-6.]

69.36.060
Penalty.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor.
[1929 c 82 § 4; RRS § 2508-4.]

69.36.070
Short title.

This chapter may be cited as the Washington Caustic Poison Act of 1929.
[1929 c 82 § 7; RRS § 2508-7.]

Chapter 69.38 RCW

POISONS — SALES AND MANUFACTURING

Sections

69.38.010	"Poison" defined.
69.38.020	Exemptions from chapter.
69.38.030	Poison register—Identification of purchaser.
69.38.040	Inspection of poison register—Penalty for failure to maintain register.
69.38.050	False representation—Penalty.
69.38.060	Manufacturers and sellers of poisons—License required—Penalty.

69.38.010

"Poison" defined.

As used in this chapter "poison" means:

(1) Arsenic and its preparations;

(2) Cyanide and its preparations, including hydrocyanic acid;

(3) Strychnine; and

(4) Any other substance designated by the pharmacy quality assurance commission which, when introduced into the human body in quantities of sixty grains or less, causes violent sickness or death.

[2013 c 19 § 52; 1987 c 34 § 1.]

69.38.020

Exemptions from chapter.

All substances regulated under chapters 15.58, 17.21, 69.04, 69.41, and 69.50 RCW, and chapter 69.45 RCW are exempt from the provisions of this chapter.

[1987 c 34 § 2.]

69.38.030

Poison register—Identification of purchaser.

It is unlawful for any person, either on the person's own behalf or while an employee of another, to sell any poison without first recording in ink in a "poison register" kept solely for this purpose the following information:

(1) The date and hour of the sale;

(2) The full name and home address of the purchaser;

(3) The kind and quantity of poison sold; and

(4) The purpose for which the poison is being purchased.

The purchaser shall present to the seller identification which contains the purchaser's photograph and signature. No sale may be made unless the seller is satisfied that the purchaser's representations are true and that the poison will be used for a lawful purpose. Both the purchaser and the seller shall sign the poison register entry.

If a delivery of a poison will be made outside the confines of the seller's premises, the seller may require the business purchasing the poison to submit a letter of authorization as a substitute for the purchaser's

photograph and signature requirements. The letter of authorization shall include the unified business identifier and address of the business, a full description of how the substance will be used, and the signature of the purchaser. Either the seller or the employee of the seller delivering or transferring the poison shall affix his or her signature to the letter as a witness to the signature and identification of the purchaser. The transaction shall be recorded in the poison register as provided in this section. Letters of authorization shall be kept with the poison register and shall be subject to the inspection and preservation requirements contained in RCW 69.38.040.
[1988 c 197 § 1; 1987 c 34 § 3.]

69.38.040

Inspection of poison register—Penalty for failure to maintain register.

Every poison register shall be open for inspection by law enforcement and health officials at all times and shall be preserved for at least two years after the date of the last entry. Any person failing to maintain the poison register as required in this chapter is guilty of a misdemeanor.
[1987 c 34 § 4.]

69.38.050

False representation—Penalty.

Any person making any false representation to a seller when purchasing a poison is guilty of a gross misdemeanor.
[1987 c 34 § 5.]

69.38.060

Manufacturers and sellers of poisons—License required—Penalty.

The pharmacy quality assurance commission, after consulting with the department of health, shall require and provide for the annual licensure of every person now or hereafter engaged in manufacturing or selling poisons within this state. Upon a payment of a fee as set by the department, the department shall issue a license in such form as it may prescribe to such manufacturer or seller. Such license shall be displayed in a conspicuous place in such manufacturer's or seller's place of business for which it is issued.

Any person manufacturing or selling poison within this state without a license is guilty of a misdemeanor.
[2013 c 19 § 53; 1989 1st ex.s. c 9 § 440; 1987 c 34 § 6.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Chapter 69.40 RCW

POISONS AND DANGEROUS DRUGS

Sections

69.40.010 Poison in edible products.
69.40.015 Poison in edible products—Penalty.
69.40.020 Poison in milk or food products—Penalty.
69.40.025 Supplementary to existing laws—Enforcement.
69.40.030 Placing poison or other harmful object or substance in food, drinks, medicine, or water—Penalty.
69.40.055 Selling repackaged poison without labeling—Penalty.

NOTES:

Pharmacists: Chapter 18.64 RCW.
Poison information centers: Chapter 18.76 RCW.
Poisoning animals—Strychnine sales: RCW 16.52.190 and 16.52.193.
Washington pesticide application act: Chapter 17.21 RCW.

69.40.010

Poison in edible products.

It shall be unlawful for any person to sell, offer for sale, use, distribute, or leave in any place, any crackers, biscuit, bread or any other preparation resembling or in similitude, of any edible product, containing arsenic, strychnine or any other poison.

[1905 c 141 § 1; RRS § 6140. FORMER PART OF SECTION: 1905 c 141 § 2 now codified as RCW 69.40.015.]

69.40.015

Poison in edible products—Penalty.

Any person violating the provisions of RCW 69.40.010 shall upon conviction be punished by a fine of not less than ten dollars nor more than five hundred dollars.

[1905 c 141 § 2; RRS § 6141. Formerly RCW 69.40.010, part.]

69.40.020

Poison in milk or food products—Penalty.

Any person who shall sell, offer to sell, or have in his or her possession for the purpose of sale, either as owner, proprietor, or assistant, or in any manner whatsoever, whether for hire or otherwise, any milk or any food products, containing the chemical ingredient commonly known as formaldehyde, or in which any formaldehyde or other poisonous substance has been mixed, for the purpose of preservation or otherwise, is guilty of a class C felony, and upon conviction thereof shall be imprisoned in the penitentiary for the period of not less than one year nor more than three years.

[2003 c 53 § 320; 1905 c 50 § 1; RRS § 6142. FORMER PART OF SECTION: 1905 c 50 § 2, now codified as RCW 69.40.025.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.40.025

Supplementary to existing laws—Enforcement.

*This act shall be supplementary to the laws of this state now in force prohibiting the adulteration of food and fraud in the sale thereof; and the state dairy and food commissioner, the chemist of the state agricultural experiment station, the state attorney general and the prosecuting attorneys of the several counties of this state are hereby required, without additional compensation, to assist in the execution of *this act, and in the prosecution of all persons charged with the violation thereof, in like manner and with like powers as they are now authorized and required by law to enforce the laws of this state against the adulteration of food and fraud in the sale thereof.

[1905 c 50 § 2; RRS § 6143. Formerly RCW 69.40.020, part.]

NOTES:

Reviser's note: *(1) "This act" appears in 1905 c 50 and the sections of the act are codified as RCW 69.40.020 and 69.40.025.

(2) The duties of the state dairy and food commissioner have devolved upon the director of agriculture through a chain of statute as follows: 1913 c 60 § 6(2); 1921 c 7 § 93(1). See RCW 43.23.090(1).

69.40.030

Placing poison or other harmful object or substance in food, drinks, medicine, or water—Penalty.

(1) Every person who willfully mingles poison or places any harmful object or substance, including but not limited to pins, tacks, needles, nails, razor blades, wire, or glass in any food, drink, medicine, or other edible substance intended or prepared for the use of a human being or who shall knowingly furnish, with intent to harm another person, any food, drink, medicine, or other edible substance containing such poison or harmful object or substance to another human being, and every person who willfully poisons any spring, well, or reservoir of water, is guilty of a class B felony and shall be punished by imprisonment in a state correctional facility for not less than five years or by a fine of not less than one thousand dollars.

(2) *This act shall not apply to the employer or employers of a person who violates this section without such employer's knowledge.

[2003 c 53 § 321; 1992 c 7 § 48; 1973 c 119 § 1; 1909 c 249 § 264; RRS § 2516. Prior: Code 1881 § 802; 1873 p 185 § 27; 1869 p 202 § 25; 1854 p 79 § 25.]

NOTES:

***Reviser's note:** "this act" refers to the 1973 c 119 § 1 amendment to this section.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.40.055

Selling repackaged poison without labeling—Penalty.

It shall be unlawful for any person to sell at retail or furnish any repackaged poison drug or product without affixing or causing to be affixed to the bottle, box, vessel, or package a label containing the name of the article, all labeling required by the Food and Drug Administration and other federal or state laws or regulations, and the word "poison" distinctly shown with the name and place of the business of the seller.

This section shall not apply to the dispensing of drugs or poisons on the prescription of a practitioner.

The pharmacy quality assurance commission shall have the authority to promulgate rules for the enforcement and implementation of this section.

Every person who shall violate any of the provisions of this section shall be guilty of a misdemeanor. [2013 c 19 § 54; 1981 c 147 § 4.]

Chapter 69.41 RCW

LEGEND DRUGS — PRESCRIPTION DRUGS

Sections

69.41.010 Definitions.
69.41.020 Prohibited acts—Information not privileged communication.
69.41.030 Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty.
69.41.032 Prescription of legend drugs by dialysis programs.
69.41.040 Prescription requirements—Penalty.
69.41.042 Record requirements.
69.41.044 Confidentiality.
69.41.050 Labeling requirements—Penalty.
69.41.055 Electronic communication of prescription information—Board may adopt rules.
69.41.060 Search and seizure.
69.41.062 Search and seizure at rental premises—Notification of landlord.
69.41.065 Violations—Juvenile driving privileges.
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69.41.075 Rules—Availability of lists of drugs.
69.41.080 Animal control—Rules for possession and use of legend drugs.
69.41.085 Medication assistance—Community-based care setting.
69.41.095 Opioid overdose medication.

SUBSTITUTION OF PRESCRIPTION DRUGS

69.41.100 Legislative recognition and declaration.
69.41.110 Definitions.
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69.41.140 Minimum manufacturing standards and practices.
69.41.150 Liability of practitioner, pharmacist.
69.41.160 Pharmacy signs as to substitution for prescribed drugs.
69.41.170 Coercion of pharmacist prohibited—Penalty.
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69.41.196 List of interchangeable biological products—Pharmacy quality assurance commission to maintain link on web site.

IDENTIFICATION OF LEGEND DRUGS—MARKING

69.41.200 Requirements for identification of legend drugs—Marking.
69.41.210 Definitions.
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USE OF STEROIDS

69.41.300 Definitions.
69.41.310 Rules.

69.41.320 Practitioners—Restricted use—Medical records.
69.41.330 Public warnings—School districts.
69.41.340 Student athletes—Violations—Penalty.
69.41.350 Penalties.
69.41.900 Severability—1979 c 110.

NOTES:

Drug nuisances—Injunctions: Chapter 7.43 RCW.

69.41.010
Definitions.

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Community-based care settings" include: Community residential programs for persons 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.

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

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

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

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

(7) "Distribute" means to deliver other than by administering or dispensing a legend drug.

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

(9) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

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

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

(d) Substances intended for use as a component of any article specified in (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(10) "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 transmitted verbally by telephone nor a facsimile manually signed by the practitioner.

(11) "In-home care settings" include an individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings.

(12) "Legend drugs" means any drugs which are required by state law or regulation of the pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(13) "Legible prescription" means a prescription or medication order issued by a practitioner that is capable of being read and understood by the pharmacist filling the prescription or the nurse or other practitioner implementing the medication order. A prescription must be hand printed, typewritten, or electronically generated.

(14) "Medication assistance" means assistance rendered by a nonpractitioner to an individual residing in a community-based care setting or in-home care setting to facilitate the individual's self-administration of a legend drug or controlled substance. It includes reminding or coaching the individual, handing the medication container to the individual, opening the individual's medication container, using an enabler, or placing the medication in the individual's hand, and such other means of medication assistance as defined by rule adopted by the department. A nonpractitioner may help in the preparation of legend drugs or controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate. Medication assistance shall not include assistance with intravenous medications or injectable medications, except prefilled insulin syringes.

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

(16) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, 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, an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician assistant under chapter 18.57A RCW, a physician assistant under chapter 18.71A RCW, a naturopath licensed under chapter 18.36A RCW, a pharmacist under chapter 18.64 RCW, or, when acting under the required supervision of a dentist licensed under chapter 18.32 RCW, a dental hygienist licensed under chapter 18.29 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathic medicine and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

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

[2013 c 276 § 1; 2013 c 19 § 55; 2012 c 10 § 44; 2009 c 549 § 1024; 2006 c 8 § 115. Prior: 2003 c 257 § 2; 2003 c 140 § 11; 2000 c 8 § 2; prior: 1998 c 222 § 1; 1998 c 70 § 2; 1996 c 178 § 16; 1994 sp.s. c 9 § 736; prior: 1989 1st ex.s. c 9 § 426; 1989 c 36 § 3; 1984 c 153 § 17; 1980 c 71 § 1; 1979 ex.s. c 139 § 1; 1973 1st ex.s. c 186 § 1.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 55 and by 2013 c 276 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—2012 c 10: See note following RCW 18.20.010.

Findings—2006 c 8: "The legislature finds that prescription drug errors occur because the pharmacist or nurse cannot read the prescription from the physician or other provider with prescriptive authority. The legislature further finds that legible prescriptions can prevent these errors." [2006 c 8 § 114.]

Findings—Intent—Part headings and subheadings not law—Severability—2006 c 8: See notes following RCW 5.64.010.

Effective date—2003 c 140: See note following RCW 18.79.040.

Findings—Intent—2000 c 8: "The legislature finds that we have one of the finest health care systems in the world and excellent professionals to deliver that care. However, there are incidents of medication errors that are avoidable and serious mistakes that are preventable. Medical errors throughout the health care system constitute one of the nation's leading causes of death and injury resulting in over seven thousand deaths a year, according to a recent report from the institute of medicine. The majority of medical errors do not result from individual recklessness, but from basic flaws in the way the health system is organized. There is a need for a comprehensive strategy for government, industry, consumers, and health providers to reduce medical errors. The legislature declares a need to bring about greater safety for patients in this state who depend on prescription drugs.

It is the intent of the legislature to promote medical safety as a top priority for all citizens of our state." [2000 c 8 § 1.]

Effective date—1996 c 178: See note following RCW 18.35.110.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.41.020

Prohibited acts—Information not privileged communication.

Legend drugs shall not be sold, delivered, dispensed or administered except in accordance with this chapter.

(1) No person shall obtain or attempt to obtain a legend drug, or procure or attempt to procure the administration of a legend drug:

(a) By fraud, deceit, misrepresentation, or subterfuge; or

(b) By the forgery or alteration of a prescription or of any written order; or

(c) By the concealment of a material fact; or

(d) By the use of a false name or the giving of a false address.

(2) Information communicated to a practitioner in an effort unlawfully to procure a legend drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall willfully make a false statement in any prescription, order, report, or record, required by this chapter.

(4) No person shall, for the purpose of obtaining a legend drug, falsely assume the title of, or represent himself or herself to be, a manufacturer, wholesaler, or any practitioner.

(5) No person shall make or utter any false or forged prescription or other written order for legend drugs.

(6) No person shall affix any false or forged label to a package or receptacle containing legend drugs.

(7) No person shall willfully fail to maintain the records required by RCW 69.41.042 and 69.41.270.

(8) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW.

[2003 c 53 § 322. Prior: 1989 1st ex.s. c 9 § 408; 1989 c 352 § 8; 1973 1st ex.s. c 186 § 2.]

NOTES:

***Reviser's note:** RCW 69.41.270 was repealed by 2003 c 275 § 5.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Chapter 69.41 RCW

LEGEND DRUGS — PRESCRIPTION DRUGS

69.41.030

Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty.

(1) It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 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, 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 commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized by the nursing care quality assurance commission, a pharmacist licensed under chapter 18.64 RCW to the extent permitted by drug therapy guidelines or protocols established under RCW 18.64.011 and authorized by the *board of pharmacy and approved by a practitioner authorized to prescribe drugs, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission, or any of the following professionals in any province of Canada that shares a common border with the state of Washington or in any state of the United States: A physician licensed to practice medicine and surgery or 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 advanced registered nurse practitioner, a licensed physician assistant, a licensed osteopathic physician assistant, or a veterinarian licensed to practice veterinary medicine: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouse operator, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the health care authority from selling, delivering, possessing, and dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

(2)(a) A violation of this section involving the sale, delivery, or possession with intent to sell or deliver is a class B felony punishable according to chapter 9A.20 RCW.

(b) A violation of this section involving possession is a misdemeanor.

[2013 c 71 § 1; 2013 c 12 § 1. Prior: 2011 1st sp.s. c 15 § 79; 2011 c 336 § 837; 2010 c 83 § 1; prior: 2003 c 142 § 3; 2003 c 53 § 323; 1996 c 178 § 17; 1994 sp.s. c 9 § 737; 1991 c 30 § 1; 1990 c 219 § 2; 1987 c 144 § 1; 1981 c 120 § 1; 1979 ex.s. c 139 § 2; 1977 c 69 § 1; 1973 1st ex.s. c 186 § 3.]

NOTES:

Reviser's note: *(1) Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

(2) This section was amended by 2013 c 12 § 1 and by 2013 c 71 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Severability—2003 c 142: See note following RCW 18.53.010.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—1996 c 178: See note following RCW 18.35.110.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Finding—1990 c 219: "The legislature finds that Washington citizens in the border areas of this state are prohibited from having prescriptions from out-of-state dentists and veterinarians filled at their in-state pharmacies, and that it is in the public interest to remove this barrier for the state's citizens." [1990 c 219 § 1.]

69.41.032

Prescription of legend drugs by dialysis programs.

This chapter shall not prevent a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program from selling, delivering, possessing, or dispensing directly to its dialysis patients, in case or full shelf lots, if prescribed by a physician licensed under chapter 18.57 or 18.71 RCW, those legend drugs determined by the board pursuant to rule.

[1987 c 41 § 2.]

NOTES:

Application of pharmacy statutes to dialysis programs: RCW 18.64.257.

69.41.040

Prescription requirements—Penalty.

(1) A prescription, in order to be effective in legalizing the possession of legend drugs, must be issued for a legitimate medical purpose by one authorized to prescribe the use of such legend drugs. Except as provided in RCW 69.41.095, an order purporting to be a prescription issued to a drug abuser or habitual user of legend drugs, not in the course of professional treatment, is not a prescription within the meaning and intent of this section; and the person who knows or should know that he or she is filling such an order, as well as the person issuing it, may be charged with violation of this chapter. A legitimate medical purpose shall include use in the course of a bona fide research program in conjunction with a hospital or university.

(2) A violation of this section is a class B felony punishable according to chapter 9A.20 RCW.

[2015 c 205 § 3; 2003 c 53 § 324; 1973 1st ex.s. c 186 § 4.]

NOTES:

Intent—2015 c 205: See note following RCW 69.41.095.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.042

Record requirements.

A pharmaceutical manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs shall maintain invoices or such other records as are necessary to account for the receipt and disposition of the legend drugs.

The records maintained pursuant to this section shall be available for inspection by the board and its authorized representatives and shall be maintained for two years.

[1989 1st ex.s. c 9 § 405.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Chapter 69.41 RCW

LEGEND DRUGS — PRESCRIPTION DRUGS

69.41.044

Confidentiality.

All records, reports, and information obtained by the board or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or the proceedings of the board so long as the board and its authorized representatives comply with the provisions of chapter 42.56 RCW.

[2005 c 274 § 328; 1989 1st ex.s. c 9 § 406.]

NOTES:

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.41.050

Labeling requirements—Penalty.

(1) To every box, bottle, jar, tube or other container of a legend drug, which is dispensed by a practitioner authorized to prescribe legend drugs, there shall be affixed a label bearing the name of the prescriber, complete directions for use, the name of the drug either by the brand or generic name and strength per unit dose, name of patient and date: PROVIDED, That the practitioner may omit the name and dosage of the drug if he or she determines that his or her patient should not have this information and that, if the drug dispensed is a trial sample in its original package and which is labeled in accordance with federal law or regulation, there need be set forth additionally only the name of the issuing practitioner and the name of the patient.

(2) A violation of this section is a misdemeanor.

[2003 c 53 § 325; 1980 c 83 § 8; 1973 1st ex.s. c 186 § 5.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.055

Electronic communication of prescription information—Board may adopt rules.

(1) Information concerning an original prescription or information concerning a prescription refill for a legend drug may be electronically communicated between an authorized practitioner and a pharmacy of the patient's choice with no intervening person having access to the prescription drug order pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information and the system used for receiving electronically communicated prescription information must be approved by the board. This

subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The board shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the board;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the board.

(2) The board may adopt rules implementing this section.

[1998 c 222 § 2.]

69.41.060

Search and seizure.

If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior or district court that there is probable cause to believe that any legend drug is being used, manufactured, sold, bartered, exchanged, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any peace officer in the county, commanding the peace officer to search the premises designated and described in such complaint and warrant, and to seize all legend drugs there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, giving away, furnishing or otherwise disposing of such legend drugs and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. A copy of said warrant shall be served upon the person or persons found in possession of any such legend drugs, furniture or fixtures so seized, and if no person be found in the possession thereof, a copy of said warrant shall be posted on the door of the building or room wherein the same are found, or, if there be no door, then in any conspicuous place upon the premises.

[1987 c 202 § 227; 1973 1st ex.s. c 186 § 6.]

NOTES:

Intent—1987 c 202: See note following RCW 2.04.190.

69.41.062

Search and seizure at rental premises—Notification of landlord.

Whenever a legend drug which is sold, delivered, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known by the law enforcement agency, of the seizure and the location of the seizure.
[1988 c 150 § 8.]
NOTES:

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.41.065
Violations—Juvenile driving privileges.

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may notify the department of licensing that the juvenile's privilege to drive should be reinstated.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.
[1989 c 271 § 119; 1988 c 148 § 4.]
NOTES:

Severability—1989 c 271: See note following RCW 9.94A.510.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

69.41.072
Violations of chapter 69.50 RCW not to be charged under chapter 69.41 RCW—Exception.

Any offense which is a violation of chapter 69.50 RCW other than RCW 69.50.4012 shall not be charged under this chapter.
[2003 c 53 § 327.]
NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.075
Rules—Availability of lists of drugs.

The pharmacy quality assurance commission may make such rules for the enforcement of this chapter as are deemed necessary or advisable. The commission shall identify, by rule-making pursuant to chapter 34.05 RCW, those drugs which may be dispensed only on prescription or are restricted to use by practitioners, only. In so doing the commission shall consider the toxicity or other potentiality for harmful effect of the drug, the method of its use, and any collateral safeguards necessary to its use. The commission shall classify a drug as a legend drug where these considerations indicate the drug is not safe for use except under the supervision of a practitioner.

In identifying legend drugs the commission may incorporate in its rules lists of drugs contained in commercial pharmaceutical publications by making specific reference to each such list and the date and edition of the commercial publication containing it. Any such lists so incorporated shall be available for public inspection at the headquarters of the department of health and shall be available on request from the department of health upon payment of a reasonable fee to be set by the department.

[2013 c 19 § 56; 1989 1st ex.s. c 9 § 427; 1979 ex.s. c 139 § 3.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.41.080

Animal control—Rules for possession and use of legend drugs.

Humane societies and animal control agencies registered with the pharmacy quality assurance commission under chapter 69.50 RCW and authorized to euthanize animals may purchase, possess, and administer approved legend drugs for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs. For the purposes of this section, "approved legend drugs" means those legend drugs designated by the commission by rule as being approved for use by such societies and agencies for animal sedating or capture and does not include any substance regulated under chapter 69.50 RCW. Any society or agency so registered shall not permit persons to administer any legend drugs unless such person has demonstrated to the satisfaction of the commission adequate knowledge of the potential hazards involved in and the proper techniques to be used in administering the drugs.

The commission shall promulgate rules to regulate the purchase, possession, and administration of legend drugs by such societies and agencies and to insure strict compliance with the provisions of this section. Such rules shall require that the storage, inventory control, administration, and recordkeeping for approved legend drugs conform to the standards adopted by the commission under chapter 69.50 RCW to regulate the use of controlled substances by such societies and agencies. The commission may suspend or revoke a registration under chapter 69.50 RCW upon a determination by the commission that the person administering legend drugs has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke a registration as provided by law.

[2013 c 19 § 57; 1989 c 242 § 1.]

69.41.085

Medication assistance—Community-based care setting.

Individuals residing in community-based care settings, such as adult family homes, assisted living facilities, and residential care settings for individuals with developmental disabilities, including an individual's home, may receive medication assistance. Nothing in this chapter affects the right of an individual to refuse medication or requirements relating to informed consent.

[2012 c 10 § 45; 2003 c 140 § 12; 1998 c 70 § 1.]

Chapter 69.41 RCW

LEGEND DRUGS — PRESCRIPTION DRUGS

NOTES:

Application—2012 c 10: See note following RCW 18.20.010.

Effective date—2003 c 140: See note following RCW 18.79.040.

69.41.095

Opioid overdose medication.

(1)(a) A practitioner may prescribe, dispense, distribute, and deliver an opioid overdose medication: (i) Directly to a person at risk of experiencing an opioid-related overdose; or (ii) by collaborative drug therapy agreement, standing order, or protocol to a first responder, family member, or other person or entity in a position to assist a person at risk of experiencing an opioid-related overdose. Any such prescription or protocol order is issued for a legitimate medical purpose in the usual course of professional practice.

(b) At the time of prescribing, dispensing, distributing, or delivering the opioid overdose medication, the practitioner shall inform the recipient that as soon as possible after administration of the opioid overdose medication, the person at risk of experiencing an opioid-related overdose should be transported to a hospital or a first responder should be summoned.

(2) A pharmacist may dispense an opioid overdose medication pursuant to a prescription issued in accordance with this section and may administer an opioid overdose medication to a person at risk of experiencing an opioid-related overdose. At the time of dispensing an opioid overdose medication, a pharmacist shall provide written instructions on the proper response to an opioid-related overdose, including instructions for seeking immediate medical attention. The instructions to seek immediate medication attention must be conspicuously displayed.

(3) Any person or entity may lawfully possess, store, deliver, distribute, or administer an opioid overdose medication pursuant to a prescription or order issued by a practitioner in accordance with this section.

(4) The following individuals, if acting in good faith and with reasonable care, are not subject to criminal or civil liability or disciplinary action under chapter 18.130 RCW for any actions authorized by this section or the outcomes of any actions authorized by this section:

(a) A practitioner who prescribes, dispenses, distributes, or delivers an opioid overdose medication pursuant to subsection (1) of this section;

(b) A pharmacist who dispenses an opioid overdose medication pursuant to subsection (2) of this section;

(c) A person who possesses, stores, distributes, or administers an opioid overdose medication pursuant to subsection (3) of this section.

(5) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "First responder" means: (i) A career or volunteer firefighter, law enforcement officer, paramedic as defined in RCW 18.71.200, or first responder or emergency medical technician as defined in RCW 18.73.030; and (ii) an entity that employs or supervises an individual listed in (a)(i) of this subsection, including a volunteer fire department.

(b) "Opioid overdose medication" means any drug used to reverse an opioid overdose that binds to opioid receptors and blocks or inhibits the effects of opioids acting on those receptors. It does not include intentional administration via the intravenous route.

(c) "Opioid-related overdose" means a condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, or death that: (i) Results from the consumption or use of an opioid or another substance with which an opioid was combined; or (ii) a lay person would reasonably believe to be an opioid-related overdose requiring medical assistance.

(d) "Practitioner" means a health care practitioner who is authorized under RCW 69.41.030 to prescribe legend drugs.

(e) "Standing order" or "protocol" means written or electronically recorded instructions, prepared by a prescriber, for distribution and administration of a drug by designated and trained staff or volunteers of an organization or entity, as well as other actions and interventions to be used upon the occurrence of clearly defined clinical events in order to improve patients' timely access to treatment.

[2015 c 205 § 2.]

NOTES:

Intent—2015 c 205: "(1) The legislature intends to reduce the number of lives lost to drug overdoses by encouraging the prescription, dispensing, and administration of opioid overdose medications.

(2) Overdoses of opioids, such as heroin and prescription painkillers, cause brain injury and death by slowing and eventually stopping a person's breathing. Since 2012, drug poisoning deaths in the United States have risen six percent, and deaths involving heroin have increased a staggering thirty-nine percent. In Washington state, the annual number of deaths involving heroin or prescription opiates increased from two hundred fifty-eight in 1995 to six hundred fifty-one in 2013. Over this period, a total of nine thousand four hundred thirty-nine people died from opioid-related drug overdoses. Opioid-related drug overdoses are a statewide phenomenon.

(3) When administered to a person experiencing an opioid-related drug overdose, an opioid overdose medication can save the person's life by restoring respiration. Increased access to opioid overdose medications reduced the time between when a victim is discovered and when he or she receives lifesaving assistance. Between 1996 and 2010, lay people across the country reversed over ten thousand overdoses.

(4) The legislature intends to increase access to opioid overdose medications by permitting health care practitioners to administer, prescribe, and dispense, directly or by collaborative drug therapy agreement or standing order, opioid overdose medication to any person who may be present at an overdose - law enforcement, emergency medical technicians, family members, or service providers - and to permit those individuals to possess and administer opioid overdose medications prescribed by an authorized health care provider." [2015 c 205 § 1.]

69.41.100

Legislative recognition and declaration.

The legislature recognizes the responsibility of the state to insure that the citizens of the state are offered a choice between generic drugs and brand name drugs and the benefit of quality pharmaceutical products at competitive prices. Advances in the drug industry resulting from research and the elimination of counterfeiting of prescription drugs should benefit the users of the drugs. Pharmacy must continue to operate with accountability and effectiveness. The legislature hereby declares it to be the policy of the state that its citizens receive safe and therapeutically effective drug products at the most reasonable cost consistent with high drug quality standards.

[1986 c 52 § 1; 1977 ex.s. c 352 § 1.]

NOTES:

Severability—1977 ex.s. c 352: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 352 § 10.]

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LEGEND DRUGS — PRESCRIPTION DRUGS

69.41.110

Definitions.

As used in RCW 69.41.100 through 69.41.180, the following words shall have the following meanings:

(1) "Biological product" means any of the following, when applied to the prevention, treatment, or cure of a disease or condition of human beings: (a) A virus; (b) a therapeutic serum; (c) a toxin; (d) an antitoxin; (e) a vaccine; (f) blood, blood component, or derivative; (g) an allergenic product; (h) a protein, other than a chemically synthesized polypeptide, or an analogous product; or (i) arsphenamine, a derivative of arsphenamine, or any trivalent organic arsenic compound;

(2) "Brand name" means the proprietary or trade name selected by the manufacturer and placed upon a drug, its container, label, or wrapping at the time of packaging;

(3) "Generic name" means the official title of a drug or drug ingredients published in the latest edition of a nationally recognized pharmacopoeia or formulary;

(4) "Interchangeable" means a biological product:

(a) Licensed by the federal food and drug administration and determined to meet the safety standards for interchangeability pursuant to 42 U.S.C. Sec. 262(k)(4); or

(b) Approved based on an application filed under section 505(b) of the federal food, drug, and cosmetic act that is determined by the federal food and drug administration to be therapeutically equivalent to an approved 505(b) biological product and is included in the 505(b) list maintained by the pharmacy quality assurance commission pursuant to RCW 69.41.196;

(5) "Practitioner" means a physician, osteopathic physician and surgeon, dentist, veterinarian, or any other person authorized to prescribe drugs under the laws of this state;

(6) "Substitute" means to dispense, with the practitioner's authorization, a "therapeutically equivalent" drug product or "interchangeable biological" drug product; and

(7) "Therapeutically equivalent" means a drug product of the identical base or salt as the specific drug product prescribed with essentially the same efficacy and toxicity when administered to an individual in the same dosage regimen.

[2015 c 242 § 1; 1979 c 110 § 1; 1977 ex.s. c 352 § 2.]

NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.41.120

Prescriptions to contain instruction as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted—Out-of-state prescriptions—Form—Contents—Procedure.

(1) Every drug prescription shall contain an instruction on whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place, unless substitution is permitted under a prior-consent authorization.

If a written prescription is involved, the prescription must be legible and the form shall have two signature lines at opposite ends on the bottom of the form. Under the line at the right side shall be clearly printed the words "DISPENSE AS WRITTEN." Under the line at the left side shall be clearly printed the words "SUBSTITUTION PERMITTED." The practitioner shall communicate the instructions to the pharmacist by signing the appropriate line. No prescription shall be valid without the signature of the practitioner on one of

these lines. In the case of a prescription issued by a practitioner in another state that uses a one-line prescription form or variation thereof, the pharmacist may substitute a therapeutically equivalent generic drug or interchangeable biological product unless otherwise instructed by the practitioner through the use of the words "dispense as written," words of similar meaning, or some other indication.

(2) If an oral prescription is involved, the practitioner or the practitioner's agent shall instruct the pharmacist as to whether or not a therapeutically equivalent generic drug or interchangeable biological product may be substituted in its place. The pharmacist shall note the instructions on the file copy of the prescription.

(3) The pharmacist shall note the manufacturer of the drug dispensed on the file copy of a written or oral prescription.

(4) The pharmacist shall retain the file copy of a written or oral prescription for the same period of time specified in RCW 18.64.245 for retention of prescription records.

[2015 c 242 § 2; 2000 c 8 § 3; 1990 c 218 § 1; 1979 c 110 § 2; 1977 ex.s. c 352 § 3.]

NOTES:

Findings—Intent—2000 c 8: See note following RCW 69.41.010.

69.41.125

Interchangeable biological product may be substituted for biological product—Exception—Wholesale price less.

Unless the prescribed biological product is requested by the patient or the patient's representative, if "substitution permitted" is marked on the prescription as provided in RCW 69.41.120, the pharmacist must substitute an interchangeable biological product that he or she has in stock for the biological product prescribed if the wholesale price for the interchangeable biological product to the pharmacist is less than the wholesale price for the biological product prescribed.

[2015 c 242 § 3.]

69.41.130

Savings in price to be passed on to purchaser.

Unless the brand name drug is requested by the patient or the patient's representative, the pharmacist shall substitute an equivalent drug product which he or she has in stock if its wholesale price to the pharmacist is less than the wholesale price of the prescribed drug product, and at least sixty percent of the savings shall be passed on to the purchaser.

[2012 c 117 § 365; 1986 c 52 § 2; 1979 c 110 § 3; 1977 ex.s. c 352 § 4.]

69.41.140

Minimum manufacturing standards and practices.

A pharmacist may not substitute a product under the provisions of this section unless the manufacturer has shown that the drug has been manufactured with the following minimum good manufacturing standards and practices:

(1) Maintain quality control standards equal to those of the Food and Drug Administration;

(2) Comply with regulations promulgated by the Food and Drug Administration.

[1979 c 110 § 4; 1977 ex.s. c 352 § 5.]

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LEGEND DRUGS — PRESCRIPTION DRUGS

69.41.150

Liability of practitioner, pharmacist.

(1) A practitioner who authorizes a prescribed drug shall not be liable for any side effects or adverse reactions caused by the manner or method by which a substituted drug product is selected or dispensed.

(2) A pharmacist who substitutes a therapeutically equivalent drug product pursuant to RCW 69.41.100 through 69.41.180 as now or hereafter amended assumes no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its established name.

(3) A pharmacist who substitutes a preferred drug for a nonpreferred drug pursuant to RCW 69.41.190 assumes no greater liability for substituting the preferred drug than would be incurred in filling a prescription for the preferred drug when prescribed by name.

(4) A pharmacist who selects an interchangeable biological product to be dispensed pursuant to RCW 69.41.100 through 69.41.180, and the pharmacy for which the pharmacist is providing service, assumes no greater liability for selecting the interchangeable biological product than would be incurred in filling a prescription for the interchangeable biological product when prescribed by name. The prescribing practitioner is not liable for a pharmacist's act or omission in selecting, preparing, or dispensing an interchangeable biological product under this section.

[2015 c 242 § 6; 2003 1st sp.s. c 29 § 6; 1979 c 110 § 5; 1977 ex.s. c 352 § 6.]

NOTES:

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

69.41.160

Pharmacy signs as to substitution for prescribed drugs.

Every pharmacy shall post a sign in a location at the prescription counter that is readily visible to patrons stating, "Under Washington law, a less expensive interchangeable biological product or equivalent drug may in some cases be substituted for the drug prescribed by your doctor. Such substitution, however, may only be made with the consent of your doctor. Please consult your pharmacist or physician for more information."

[2015 c 242 § 7; 1979 c 110 § 6; 1977 ex.s. c 352 § 7.]

69.41.170

Coercion of pharmacist prohibited—Penalty.

It shall be unlawful for any employer to coerce, within the meaning of RCW 9A.36.070, any pharmacist to dispense a generic drug or to substitute a generic drug for another drug. A violation of this section shall be punishable as a misdemeanor.

[1977 ex.s. c 352 § 8.]

69.41.180

Rules.

The pharmacy quality assurance commission may adopt any necessary rules under chapter 34.05 RCW for the implementation, continuation, or enforcement of RCW 69.41.100 through 69.41.180, including, but not limited to, a list of therapeutically or nontherapeutically equivalent drugs which, when adopted, shall be provided to all registered pharmacists in the state and shall be updated as necessary.
[2013 c 19 § 58; 1979 c 110 § 7; 1977 ex.s. c 352 § 9.]

69.41.190

Preferred drug substitution—Exceptions—Notice—Limited restrictions.

(1)(a) Except as provided in subsection (2) of this section, any pharmacist filling a prescription under a state purchased health care program as defined in *RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written, or the prescription is for a refill of an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks, in which case the pharmacist shall dispense the prescribed nonpreferred drug.

(b) When a substitution is made under (a) of this subsection, the dispensing pharmacist shall notify the prescribing practitioner of the specific drug and dose dispensed.

(2)(a) A state purchased health care program may impose limited restrictions on an endorsing practitioner's authority to write a prescription to dispense as written only under the following circumstances:

(i) There is statistical or clear data demonstrating the endorsing practitioner's frequency of prescribing dispensed as written for nonpreferred drugs varies significantly from the prescribing patterns of his or her peers;

(ii) The medical director of a state purchased health program has: (A) Presented the endorsing practitioner with data that indicates the endorsing practitioner's prescribing patterns vary significantly from his or her peers, (B) provided the endorsing practitioner an opportunity to explain the variation in his or her prescribing patterns to those of his or her peers, and (C) if the variation in prescribing patterns cannot be explained, provided the endorsing practitioner sufficient time to change his or her prescribing patterns to align with those of his or her peers; and

(iii) The restrictions imposed under (a) of this subsection (2) must be limited to the extent possible to reduce variation in prescribing patterns and shall remain in effect only until such time as the endorsing practitioner can demonstrate a reduction in variation in line with his or her peers.

(b) A state purchased health care program may immediately designate an available, less expensive, equally effective generic product in a previously reviewed drug class as a preferred drug, without first submitting the product to review by the pharmacy and therapeutics committee established pursuant to RCW 70.14.050.

(c) For a patient's first course of treatment within a therapeutic class of drugs, a state purchased health care program may impose limited restrictions on endorsing practitioners' authority to write a prescription to dispense as written, only under the following circumstances:

(i) There is a less expensive, equally effective therapeutic alternative generic product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation;

(iii) Notwithstanding the limitation set forth in (c)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the brand name drug be prescribed as the first course of treatment;

(iv) The state purchased health care program may provide, where available, prescription, emergency room, diagnosis, and hospitalization history with the endorsing practitioner; and

(v) Specifically for antipsychotic restrictions, the state purchased health care program shall effectively guide good practice without interfering with the timeliness of clinical decision making. Health care authority prior authorization programs must provide for responses within twenty-four hours and at least a seventy-two hour emergency supply of the requested drug.

(d) If, within a therapeutic class, there is an equally effective therapeutic alternative over-the-counter drug available, a state purchased health care program may designate the over-the-counter drug as the preferred drug.

(e) A state purchased health care program may impose limited restrictions on endorsing practitioners' authority to prescribe pharmaceuticals to be dispensed as written for a purpose outside the scope of their approved labels only under the following circumstances:

(i) There is a less expensive, equally effective on-label product available to treat the condition;

(ii) The drug use review board established under WAC 388-530-4000 reviews and provides recommendations as to the appropriateness of the limitation; and

(iii) Notwithstanding the limitation set forth in (e)(ii) of this subsection (2), the endorsing practitioner shall have an opportunity to request as medically necessary, that the drug be prescribed for a covered off-label purpose.

(f) The provisions of this subsection related to the definition of medically necessary, prior authorization procedures and patient appeal rights shall be implemented in a manner consistent with applicable federal and state law.

(3) Notwithstanding the limitations in subsection (2) of this section, for refills for an antipsychotic, antidepressant, antiepileptic, chemotherapy, antiretroviral, or immunosuppressive drug, or for the refill of an immunomodulator antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks by no more than forty-eight weeks, the pharmacist shall dispense the prescribed nonpreferred drug.

[2011 1st sp.s. c 15 § 80; 2009 c 575 § 1; 2006 c 233 § 1; 2003 1st sp.s. c 29 § 5.]

NOTES:

***Reviser's note:** RCW 41.05.011 was alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (2) to subsection (21). RCW 41.05.011 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (21) to subsection (22).

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

Effective date—2009 c 575: "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 immediately [May 19, 2009]." [2009 c 575 § 2.]

Finding—Intent—Severability—Conflict with federal requirements—Effective date—2003 1st sp.s. c 29: See notes following RCW 74.09.650.

69.41.193

Dispensing of biological product—Entry of product into electronic records system—Communication—Exceptions. (Expires August 1, 2020.)

(1) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee must make an entry of the specific product provided to the patient, including either the name of the product and the manufacturer or the federal food and drug administration's national drug code, provided that the name of the product and the name of the manufacturer are accessible to a practitioner in an electronic records system that can be electronically accessed by the patient's practitioner through:

(a) An interoperable electronic medical records system;

(b) An electronic prescribing technology;

(c) A pharmacy benefit management system; or

(d) A pharmacy record.

(2) Entry into an electronic records system, as described in subsection (1) of this section, is presumed to provide notice to the practitioner. Otherwise, the pharmacist must communicate to the practitioner the specific product provided to the patient, including the name of the product and manufacturer, using facsimile, telephone, electronic transmission, or other prevailing means.

(3) No entry or communication pursuant to this section is required if:

(a) There is no interchangeable biological product for the product prescribed;

(b) A refill prescription is not changed from the product dispensed on the prior filling of the prescription; or

(c) The pharmacist or the pharmacist's designee and the practitioner communicated before dispensing and the communication included confirmation of the specific product to be provided to the patient, including the name of the product and the manufacturer.

(4) This section expires August 1, 2020.

[2015 c 242 § 4.]

69.41.196

List of interchangeable biological products—Pharmacy quality assurance commission to maintain link on web site.

The pharmacy quality assurance commission shall maintain a link on its web site to the current list of all biological products determined by the federal food and drug administration as interchangeable. The commission shall maintain a list of all biological products approved as therapeutically equivalent by the federal food and drug administration through the approval process specified in 505(b) of the federal food, drug, and cosmetic act. The commission shall make the 505(b) list accessible to pharmacies.

[2015 c 242 § 5.]

69.41.200

Requirements for identification of legend drugs—Marking.

(1) No legend drug in solid dosage form may be manufactured or commercially distributed within this state unless it has clearly marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(2) No manufacturer or distributor may sell any legend drug contained within a bottle, vial, carton, or other container, or in any way affixed or appended to or enclosed within a package of any kind designed or intended for delivery in such container or package to an ultimate consumer within this state unless such container or package has clearly and permanently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or National Drug Code number identifying the drug and the manufacturer or distributor of such drug.

(3) Whenever the distributor of a legend drug does not also manufacture it, the names and places of businesses of both shall appear on the stock container or package label in words that truly distinguish each.
[1980 c 83 § 1.]

69.41.210
Definitions.

The terms defined in this section shall have the meanings indicated when used in RCW 69.41.200 through 69.41.260.

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

(2) "Distributor" means any corporation, person, or other entity which distributes for sale a legend drug under its own label even though it is not the actual manufacturer of the legend drug.

(3) "Legend drug" means any drugs which are required by state law or regulation of the commission to be dispensed as prescription only or are restricted to use by prescribing practitioners only and shall include controlled substances in Schedules II through V of chapter 69.50 RCW.

(4) "Solid dosage form" means capsules or tablets or similar legend drug products intended for administration and which could be ingested orally.
[2013 c 19 § 59; 1980 c 83 § 2.]
NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.41.220
Published lists of drug imprints—Requirements for.

Each manufacturer and distributor shall publish and provide to the board by filing with the department printed material which will identify each current imprint used by the manufacturer or distributor. The board shall be notified of any change by the filing of any change with the department. This information shall be provided by the department to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.
[1989 1st ex.s. c 9 § 428; 1980 c 83 § 3.]
NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.41.230

Drugs in violation are contraband.

Any legend drug prepared or manufactured or offered for sale in violation of this chapter or implementing rules shall be contraband and subject to seizure under the provisions of RCW 69.41.060.
[1980 c 83 § 4.]

69.41.240

Rules—Labeling and marking.

The commission shall have authority to promulgate rules and regulations for the enforcement and implementation of RCW 69.41.050 and 69.41.200 through 69.41.260.
[2013 c 19 § 60; 1980 c 83 § 5.]

69.41.250

Exemptions.

(1) The commission, upon application of a manufacturer, may exempt a particular legend drug from the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

(2) The provisions of RCW 69.41.050 and 69.41.200 through 69.41.260 shall not apply to any legend drug which is prepared or manufactured by a pharmacy in this state and is for the purpose of retail sale from such pharmacy and not intended for resale.
[2013 c 19 § 61; 1980 c 83 § 6.]

69.41.260

Manufacture or distribution for resale—Requirements.

All legend drugs manufactured or distributed for resale to any entity in this state other than the ultimate consumer shall meet the requirements of RCW 69.41.050 and 69.41.200 through 69.41.260 from a date eighteen months after June 12, 1980.
[1980 c 83 § 7.]

69.41.280

Confidentiality.

All records, reports, and information obtained by the pharmacy quality assurance commission or its authorized representatives from or on behalf of a pharmaceutical manufacturer, representative of a manufacturer, wholesaler, pharmacy, or practitioner who purchases, dispenses, or distributes legend drugs under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. Nothing in this section restricts the investigations or the proceedings of the commission so long as the commission and its authorized representatives comply with the provisions of chapter 42.56 RCW.
[2013 c 19 § 62; 2005 c 274 § 329; 1989 c 352 § 6.]

NOTES:

Chapter 69.41 RCW

LEGEND DRUGS — PRESCRIPTION DRUGS

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

69.41.300

Definitions.

For the purposes of RCW 69.41.300 through 69.41.350, "steroids" shall include the following:

(1) "Anabolic steroids" means synthetic derivatives of testosterone or any isomer, ester, salt, or derivative that act in the same manner on the human body;

(2) "Androgens" means testosterone in one of its forms or a derivative, isomer, ester, or salt, that act in the same manner on the human body; and

(3) "Human growth hormones" means growth hormones, or a derivative, isomer, ester, or salt that act in the same manner on the human body.

[2003 c 53 § 328; 1989 c 369 § 1.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.310

Rules.

The pharmacy quality assurance commission shall specify by rule drugs to be classified as steroids as defined in RCW 69.41.300.

On or before December 1 of each year, the commission shall inform the appropriate legislative committees of reference of the drugs that the commission has added to the steroids in RCW 69.41.300. The commission shall submit a statement of rationale for the changes.

[2013 c 19 § 63; 1989 c 369 § 2.]

69.41.320

Practitioners—Restricted use—Medical records.

(1)(a) A practitioner shall not prescribe, administer, or dispense steroids, as defined in RCW 69.41.300, or any form of autotransfusion for the purpose of manipulating hormones to increase muscle mass, strength, or weight, or for the purpose of enhancing athletic ability, without a medical necessity to do so.

(b) A person violating this subsection is guilty of a gross misdemeanor and is subject to disciplinary action under RCW 18.130.180.

(2) A practitioner shall complete and maintain patient medical records which accurately reflect the prescribing, administering, or dispensing of any substance or drug described in this section or any form of autotransfusion. Patient medical records shall indicate the diagnosis and purpose for which the substance, drug, or autotransfusion is prescribed, administered, or dispensed and any additional information upon which the diagnosis is based.

[2003 c 53 § 329; 1989 c 369 § 3.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.330

Public warnings—School districts.

The superintendent of public instruction shall develop and distribute to all school districts signs of appropriate design and dimensions advising students of the health risks that steroids present when used solely to enhance athletic ability, and of the penalties for their unlawful possession provided by RCW 69.41.300 through 69.41.350.

School districts shall post or cause the signs to be posted in a prominent place for ease of viewing on the premises of school athletic departments.

[2003 c 53 § 330; 1989 c 369 § 5.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.41.340

Student athletes—Violations—Penalty.

The superintendent of public instruction, in consultation with the Washington interscholastic activity association, shall promulgate rules by January 1, 1990, regarding loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated this chapter. The regents or trustees of each institution of higher education shall promulgate rules by January 1, 1990, regarding loss of eligibility to participate in school-sponsored athletic events for any student athlete found to have violated this chapter.

[1989 c 369 § 6.]

69.41.350

Penalties.

(1) A person who violates the provisions of this chapter by possessing under two hundred tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a gross misdemeanor.

(2) A person who violates the provisions of this chapter by possessing over two hundred tablets or eight 2cc bottles of steroid without a valid prescription is guilty of a class C felony and shall be punished according to chapter 9A.20 RCW.

[2003 c 53 § 326; 1989 c 369 § 4; 1983 1st ex.s. c 4 § 4; 1973 1st ex.s. c 186 § 7. Formerly RCW 69.41.070.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—1983 1st ex.s. c 4: See note following RCW 9A.48.070.

69.41.900

Severability—1979 c 110.

If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[1979 c 110 § 8.]

Chapter 69.41 RCW

LEGEND DRUGS — PRESCRIPTION DRUGS

Chapter 69.43 RCW

PRECURSOR DRUGS

Sections

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69.43.010

Report to pharmacy quality assurance commission—List of substances—Modification of list—Identification of purchasers—Report of transactions—Penalties.

(1) A report to the pharmacy quality assurance commission shall be submitted in accordance with this chapter by a manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes to any person any of the following substances or their salts or isomers:

(a) Anthranilic acid;

(b) Barbituric acid;

(c) Chlorephedrine;
(d) Diethyl malonate;
(e) D-lysergic acid;
(f) Ephedrine;
(g) Ergotamine tartrate;
(h) Ethylamine;
(i) Ethyl malonate;
(j) Ethylephedrine;
(k) Lead acetate;
(l) Malonic acid;
(m) Methylamine;
(n) Methylformamide;
(o) Methylephedrine;
(p) Methylpseudoephedrine;
(q) N-acetylanthranilic acid;
(r) Norpseudoephedrine;
(s) Phenylacetic acid;
(t) Phenylpropanolamine;
(u) Piperidine;
(v) Pseudoephedrine; and
(w) Pyrrolidine.

(2) The pharmacy quality assurance commission shall administer this chapter and may, by rule adopted pursuant to chapter 34.05 RCW, add a substance to or remove a substance from the list in subsection (1) of this section. In determining whether to add or remove a substance, the commission shall consider the following:

(a) The likelihood that the substance is useable as a precursor in the illegal production of a controlled substance as defined in chapter 69.50 RCW;

(b) The availability of the substance;

(c) The relative appropriateness of including the substance in this chapter or in chapter 69.50 RCW; and

(d) The extent and nature of legitimate uses for the substance.

(3)(a) Any manufacturer, wholesaler, retailer, or other person shall, before selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section to any person, require proper identification from the purchaser.

(b) For the purposes of this subsection, "proper identification" means:

(i) A motor vehicle operator's license or other official state-issued identification of the purchaser containing a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number;

(ii) The motor vehicle license number of any motor vehicle owned or operated by the purchaser;

(iii) A letter of authorization from any business for which any substance specified in subsection (1) of this section is being furnished, which includes the business license number and address of the business;

(iv) A description of how the substance is to be used; and

(v) The signature of the purchaser.

The person selling, transferring, or otherwise furnishing any substance specified in subsection (1) of this section shall affix his or her signature as a witness to the signature and identification of the purchaser.

(c) A violation of or a failure to comply with this subsection is a misdemeanor.

(4) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes the substance specified in subsection (1) of this section to any person shall, not less than twenty-one days before delivery of the substance, submit a report of the transaction, which includes the identification information specified in subsection (3) of this section to the pharmacy quality assurance commission. However, the

pharmacy quality assurance commission may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the pharmacy quality assurance commission determines that either of the following exist:

(a) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance; or

(b) The recipient has established a record of using the substance for lawful purposes.

(5) Any person specified in subsection (4) of this section who does not submit a report as required by subsection (4) of this section is guilty of a gross misdemeanor.

[2013 c 19 § 64; 2001 c 96 § 2; 1998 c 245 § 107; 1988 c 147 § 1.]

NOTES:

Intent—2001 c 96: "Communities all over the state of Washington have experienced an increase in the illegal manufacture of methamphetamine. Illegal methamphetamine labs create a significant threat to the health and safety of the people of the state. Some of the chemicals and compounds used to make methamphetamine, and the toxic wastes the process generates, are hazards to the public health. Increases in crime, violence, and the abuse and neglect of children present at laboratory sites are also associated with the increasing number of illegal laboratory sites. The drugs ephedrine, pseudoephedrine, and phenylpropanolamine, which are used in the illegal manufacture of methamphetamine, have been identified as factors in the increase in the number of illegal methamphetamine labs. Therefore, it is the intent of the legislature to place restrictions on the sale and possession of those three drugs in order to reduce the proliferation of illegal methamphetamine laboratories and the associated threats to public health and safety." [2001 c 96 § 1.]

Severability—2001 c 96: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 96 § 15.]

69.43.020

Receipt of substance from source outside state—Report—Penalty.

(1) Any manufacturer, wholesaler, retailer, or other person who receives from a source outside of this state any substance specified in RCW 69.43.010(1) shall submit a report of such transaction to the pharmacy quality assurance commission under rules adopted by the commission.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

[2013 c 19 § 65; 2001 c 96 § 3; 1988 c 147 § 2.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.030

Exemptions.

RCW 69.43.010 and 69.43.020 do not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a practitioner, as defined in chapter 69.41 RCW;

(2) Any practitioner who administers or furnishes a substance to his or her patients;

(3) Any manufacturer or wholesaler licensed by the pharmacy quality assurance commission who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy or practitioner;

(4) Any sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished, over the counter without a prescription under chapter 69.04 or 69.41 RCW.

[2013 c 19 § 66; 1988 c 147 § 3.]

69.43.035

Suspicious transactions—Report—Penalty.

(1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) to any person in a suspicious transaction shall report the transaction in writing to the pharmacy quality assurance commission.

(2) Any person specified in subsection (1) of this section who does not submit a report as required by subsection (1) of this section is guilty of a gross misdemeanor.

(3) For the purposes of this section, "suspicious transaction" means a sale or transfer to which any of the following applies:

(a) The circumstances of the sale or transfer would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter 69.50 RCW, based on such factors as the amount involved, the method of payment, the method of delivery, and any past dealings with any participant in the transaction. The pharmacy quality assurance commission shall adopt by rule criteria for determining whether a transaction is suspicious, taking into consideration the recommendations in appendix A of the report to the United States attorney general by the suspicious orders task force under the federal comprehensive methamphetamine control act of 1996.

(b) The transaction involves payment for any substance specified in RCW 69.43.010(1) in cash or money orders in a total amount of more than two hundred dollars.

(4) The pharmacy quality assurance commission shall transmit to the department of revenue a copy of each report of a suspicious transaction that it receives under this section.

[2013 c 19 § 67; 2004 c 52 § 6; 2001 c 96 § 4.]

NOTES:

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.040

Reporting form.

(1) The department of health, in accordance with rules developed by the pharmacy quality assurance commission shall provide a common reporting form for the substances in RCW 69.43.010 that contains at least the following information:

(a) Name of the substance;

(b) Quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The name and address of the manufacturer, wholesaler, retailer, or other person selling, transferring, or furnishing the substance.

(2) Monthly reports authorized under RCW 69.43.010(4) may be computer-generated in accordance with rules adopted by the department.

[2013 c 19 § 68; 2001 c 96 § 7; 1989 1st ex.s. c 9 § 441; 1988 c 147 § 4.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.43.043

Recordkeeping requirements—Penalty.

(1) Any manufacturer or wholesaler who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) to any person shall maintain a record of each such sale or transfer. The records must contain:

(a) The name of the substance;

(b) The quantity of the substance sold, transferred, or furnished;

(c) The date the substance was sold, transferred, or furnished;

(d) The name and address of the person buying or receiving the substance; and

(e) The method of and amount of payment for the substance.

(2) The records of sales and transfers required by this section shall be available for inspection by the pharmacy quality assurance commission and its authorized representatives and shall be maintained for two years.

(3) A violation of this section is a gross misdemeanor.

[2013 c 19 § 69; 2001 c 96 § 5.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.048

Reporting and recordkeeping requirements—Submission of computer readable data, copies of federal reports.

A manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010(1) and who is subject to the reporting or recordkeeping requirements of this chapter may satisfy the requirements by submitting to the pharmacy quality assurance commission, and its authorized representatives:

(1) Computer readable data from which all of the required information may be readily derived; or

(2) Copies of reports that are filed under federal law that contain all of the information required by the particular reporting or recordkeeping requirement of this chapter which it is submitted to satisfy.

[2013 c 19 § 70; 2001 c 96 § 6.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.050

Rules.

(1) The pharmacy quality assurance commission may adopt all rules necessary to carry out this chapter.

(2) Notwithstanding subsection (1) of this section, the department of health may adopt rules necessary for the administration of this chapter.

[2013 c 19 § 71; 1989 1st ex.s. c 9 § 442; 1988 c 147 § 5.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.43.060

Theft—Missing quantity—Reporting.

(1) The theft or loss of any substance under RCW 69.43.010 discovered by any person regulated by this chapter shall be reported to the pharmacy quality assurance commission within seven days after such discovery.

(2) Any difference between the quantity of any substance under RCW 69.43.010 received and the quantity shipped shall be reported to the pharmacy quality assurance commission within seven days of the receipt of actual knowledge of the discrepancy. When applicable, any report made pursuant to this subsection shall also include the name of any common carrier or person who transported the substance and the date of shipment of the substance.

[2013 c 19 § 72; 1988 c 147 § 6.]

69.43.070

Sale, transfer, or furnishing of substance for unlawful purpose—Receipt of substance with intent to use unlawfully—Class B felony.

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance listed in RCW 69.43.010 with knowledge or the intent that the recipient will use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW.

(2) Any person who receives any substance listed in RCW 69.43.010 with intent to use the substance unlawfully to manufacture a controlled substance under chapter 69.50 RCW is guilty of a class B felony under chapter 9A.20 RCW.

[1988 c 147 § 7.]

69.43.080

False statement in report or record—Class C felony.

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It is unlawful for any person knowingly to make a false statement in connection with any report or record required under this chapter. A violation of this section is a class C felony under chapter 9A.20 RCW.
[1988 c 147 § 8.]

69.43.090

Permit to sell, transfer, furnish, or receive substance—Exemptions—Application for permit—Fee—Renewal—Penalty.

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010 to any person or who receives from a source outside of the state any substance specified in RCW 69.43.010 shall obtain a permit for the conduct of that business from the pharmacy quality assurance commission. However, a permit shall not be required of any manufacturer, wholesaler, retailer, or other person for the sale, transfer, furnishing, or receipt of any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine, or of any cosmetic that contains a substance specified in RCW 69.43.010(1), if such drug or cosmetic is lawfully sold, transferred, or furnished over the counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) Applications for permits shall be filed with the department in writing and signed by the applicant, and shall set forth the name of the applicant, the business in which the applicant is engaged, the business address of the applicant, and a full description of any substance sold, transferred, or otherwise furnished, or received.

(3) The commission may grant permits on forms prescribed by it. The permits shall be effective for not more than one year from the date of issuance.

(4) Each applicant shall pay at the time of filing an application for a permit a fee determined by the department.

(5) A permit granted under this chapter may be renewed on a date to be determined by the commission, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee determined by the department.

(6) Permit fees charged by the department shall not exceed the costs incurred by the department in administering this chapter.

(7) Selling, transferring, or otherwise furnishing, or receiving any substance specified in RCW 69.43.010 without a required permit, is a gross misdemeanor.
[2013 c 19 § 73; 2001 c 96 § 8; 1989 1st ex.s. c 9 § 443; 1988 c 147 § 9.]
NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.43.100

Refusal, suspension, or revocation of a manufacturer's or wholesaler's permit.

The pharmacy quality assurance commission shall have the power to refuse, suspend, or revoke the permit of any manufacturer or wholesaler upon proof that:

(1) The permit was procured through fraud, misrepresentation, or deceit;

(2) The permittee has violated or has permitted any employee to violate any of the laws of this state relating to drugs, controlled substances, cosmetics, or nonprescription drugs, or has violated any of the rules and regulations of the pharmacy quality assurance commission.
[2013 c 19 § 74; 1988 c 147 § 10.]

69.43.105
Ephedrine, pseudoephedrine, phenylpropanolamine—Sales restrictions—Record of transaction—Exceptions—Penalty.

(1) For purposes of this section, "traditional Chinese herbal practitioner" means a person who is certified as a diplomate in Chinese herbology from the national certification commission for acupuncture and oriental medicine or who has received a certificate in Chinese herbology from a school accredited by the accreditation council on acupuncture and oriental medicine.

(2) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may not knowingly sell, transfer, or otherwise furnish to any person a product at retail that he or she knows to contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, without first obtaining photo identification of the person that shows the date of birth of the person.

(3) A person buying or receiving a product at retail containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, from a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner must first produce photo identification of the person that shows the date of birth of the person.

(4) Any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall be kept (a) behind a counter where the public is not permitted, or (b) in a locked display case so that a customer wanting access must ask an employee of the merchant for assistance.

(5) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may sell any product containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, to a person that is not at least eighteen years old.

(6) A pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW selling a nonprescription drug containing ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers shall require the purchaser to electronically or manually sign a record of the transaction. The record must include the name and address of the purchaser, the date and time of the sale, the name and initials of the shopkeeper, itinerant vendor, pharmacist, pharmacy technician, or employee conducting the transaction, the name of the product being sold, as well as the total quantity in grams, of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, being sold.

(7) The pharmacy quality assurance commission, by rule, may exempt products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, in combination with another active ingredient from the requirements of this section if they are found not to be used in the illegal manufacture of methamphetamine or other controlled dangerous substances. A manufacturer of a drug product may apply for removal of the product from the requirements of this section if the product is determined by the commission to have been formulated in such a way as to effectively prevent the conversion of the active

ingredient into methamphetamine. The burden of proof for exemption is upon the person requesting the exemption. The petitioner shall provide the commission with evidence that the product has been formulated in such a way as to serve as an effective general deterrent to the conversion of pseudoephedrine into methamphetamine. The evidence must include the furnishing of a valid scientific study, conducted by an independent, professional laboratory and evincing professional quality chemical analysis. Factors to be considered in whether a product should be excluded from this section include but are not limited to:

(a) Ease with which the product can be converted to methamphetamine;

(b) Ease with which ephedrine, pseudoephedrine, or phenylpropanolamine is extracted from the substance and whether it forms an emulsion, salt, or other form;

(c) Whether the product contains a "molecular lock" that renders it incapable of being converted into methamphetamine;

(d) Presence of other ingredients that render the product less likely to be used in the manufacture of methamphetamine; and

(e) Any pertinent data that can be used to determine the risk of the substance being used in the illegal manufacture of methamphetamine or any other controlled substance.

(8) Nothing in this section applies:

(a) To any product containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form;

(b) To the sale of a product that may only be sold upon the presentation of a prescription;

(c) To the sale of a product by a traditional Chinese herbal practitioner to a patient; or

(d) When the details of the transaction are recorded in a pharmacy profile individually identified with the recipient and maintained by a licensed pharmacy.

(9)(a) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner may retaliate against any employee that has made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(b) No pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, a practitioner as defined in RCW 18.64.011, or a traditional Chinese herbal practitioner is subject to prosecution under subsection (10) of this section if they made a good faith attempt to comply with the requirements of this section by requesting that a customer present photo identification, making a reasonable effort to determine the customer's age.

(10) A violation of this section is a gross misdemeanor.

[2013 c 19 § 75; 2010 c 182 § 1; 2005 c 388 § 2.]

NOTES:

Finding—2005 c 388: "Restricting access to certain precursor drugs used to manufacture methamphetamine to ensure that they are only sold at retail to individuals who will use them for legitimate purposes upon production of proper identification is an essential step to controlling the manufacture of methamphetamine." [2005 c 388 § 1.]

Effective dates—2005 c 388: "(1) Section 2 of this act takes effect October 1, 2005.

(2) Sections 1, 3 through 7, 9, and 10 of this act take effect January 1, 2006.

(3) Section 8 of 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 immediately [May 11, 2005]." [2005 c 388 § 11.]

Severability—2005 c 388: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2005 c 388 § 10.]

69.43.110

Ephedrine, pseudoephedrine, phenylpropanolamine—Sales restrictions—Electronic sales tracking system—Penalty.

(1) It is unlawful for a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW, or an employee thereof, or a practitioner as defined in RCW 18.64.011, knowingly to sell, transfer, or to otherwise furnish, in a single transaction a total of more than 3.6 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, in any twenty-four hour period or more than a total of nine grams per purchaser in any thirty-day period.

(2) It is unlawful for a person who is not a manufacturer, wholesaler, pharmacy, practitioner, shopkeeper, or itinerant vendor licensed by or registered with the department of health under chapter 18.64 RCW to purchase or acquire more than 3.6 grams in any twenty-four hour period, or more than a total of nine grams in any thirty-day period, of the substances specified in subsection (1) of this section.

(3) It is unlawful for any person to sell or distribute any of the substances specified in subsection (1) of this section unless the person is licensed by or registered with the department of health under chapter 18.64 RCW, or is a practitioner as defined in RCW 18.64.011.

(4)(a) Beginning July 1, 2011, or the date upon which the electronic sales tracking system established under RCW 69.43.165 is available, whichever is later, a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW shall, before completing a sale under this section, submit the required information to the electronic sales tracking system established under RCW 69.43.165, as long as such a system is available without cost to the pharmacy, shopkeeper, or itinerant vendor for accessing the system. The pharmacy, shopkeeper, or itinerant vendor may not complete the sale if the system generates a stop sale alert, except as permitted in RCW 69.43.165.

(b) If a pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, he or she shall maintain a written log or an alternative electronic recordkeeping mechanism until such time as he or she is able to comply with the electronic sales tracking requirement.

(c) A pharmacy, shopkeeper, or itinerant vendor selling a nonprescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers may seek an exemption from submitting transactions to the electronic sales tracking system in writing to the pharmacy quality assurance commission stating the reasons for the exemption. The commission may grant an exemption for good cause shown, but in no event shall a granted exemption exceed one hundred eighty days. The commission may grant multiple exemptions for any pharmacy, shopkeeper, or itinerant vendor if the good cause shown indicates significant hardship for compliance with this section. A pharmacy, shopkeeper, or itinerant vendor that receives an exemption shall maintain a logbook in hardcopy form and must require the purchaser to provide the information required under this section before the completion of any sale. The logbook shall be maintained as a record of each sale for inspection by any law enforcement officer or commission inspector during normal business hours in accordance with any rules adopted pursuant to RCW 69.43.165. For purposes of this subsection (4)(c), "good cause" includes, but is not limited to, situations where

the installation of the necessary equipment to access the system is unavailable or cost prohibitive to the pharmacy, shopkeeper, or itinerant vendor.

(d) A pharmacy, shopkeeper, or itinerant vendor may withdraw from participating in the electronic sales tracking system if the system is no longer being furnished without cost for accessing the system. A pharmacy, shopkeeper, or itinerant vendor who withdraws from the electronic sales tracking system is subject to the same requirements as a pharmacy, shopkeeper, or itinerant vendor who has been granted an exemption under (c) of this subsection.

(e) For the purposes of this subsection (4) and RCW 69.43.165:

(i) "Cost for accessing the system" means costs relating to:

(A) Access to the web-based electronic sales tracking software, including inputting and retrieving data;

(B) The web-based software known as software as a service;

(C) Training; and

(D) Technical support to integrate to point of sale vendors, if necessary.

(ii) "Cost for accessing the system" does not include:

(A) Costs relating to required internet access;

(B) Optional hardware that a pharmacy may choose to purchase for work flow purposes; or

(C) Other equipment.

(5) A violation of this section is a gross misdemeanor.

[2013 c 19 § 76; 2010 c 182 § 2; 2005 c 388 § 4; 2004 c 52 § 5; 2001 c 96 § 9.]

NOTES:

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.120

Ephedrine, pseudoephedrine, phenylpropanolamine—Possession of more than fifteen grams—Penalty—Exceptions.

(1) Any person who possesses more than fifteen grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, or a combination of any of those substances, is guilty of a gross misdemeanor.

(2) This section does not apply to any of the following:

(a) A pharmacist or other authorized person who sells or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers upon the prescription of a practitioner, as defined in RCW 69.41.010;

(b) A practitioner who administers or furnishes ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers to his or her patients;

(c) A pharmacy, manufacturer, or wholesaler licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW;

(d) A person in the course of his or her business of selling, transporting, or storing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers, for a person described in (a), (b), or (c) of this subsection; or

(e) A person in possession of more than fifteen grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts, isomers, or salts of isomers in their home or residence under circumstances consistent with typical medicinal or household use as indicated by, but not limited to, storage location and possession of products in a variety of strengths, brands, types, purposes, and expiration dates.
[2001 c 96 § 10.]
NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.130
Exemptions—Pediatric products—Products exempted by the pharmacy quality assurance commission.

RCW 69.43.110 and 69.43.120 do not apply to:

(1) Pediatric products primarily intended for administration to children under twelve years of age, according to label instructions, either: (a) In solid dosage form whose individual dosage units do not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine; or (b) in liquid form whose recommended dosage, according to label instructions, does not exceed fifteen milligrams of ephedrine, pseudoephedrine, or phenylpropanolamine per five milliliters of liquid product;

(2) Pediatric liquid products primarily intended for administration to children under two years of age for which the recommended dosage does not exceed two milliliters and the total package content does not exceed one fluid ounce;

(3) Products that the pharmacy quality assurance commission, upon application of a manufacturer, exempts by rule from RCW 69.43.110 and 69.43.120 because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine, or its salts or precursors; or

(4) Products, as packaged, that the pharmacy quality assurance commission, upon application of a manufacturer, exempts from RCW 69.43.110(1) and 69.43.120 because:

(a) The product meets the federal definition of an ordinary over-the-counter pseudoephedrine product as defined in 21 U.S.C. 802;

(b) The product is a salt, isomer, or salts of isomers of pseudoephedrine and, as packaged, has a total weight of more than three grams but the net weight of the pseudoephedrine base is equal to or less than three grams; and

(c) The pharmacy quality assurance commission determines that the value to the people of the state of having the product, as packaged, available for sale to consumers outweighs the danger, and the product, as packaged, has not been used in the illegal manufacture of methamphetamine.
[2013 c 19 § 77; 2004 c 52 § 7; 2001 c 96 § 11.]
NOTES:

Finding—Severability—Effective date—2004 c 52: See notes following RCW 18.64.044.

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.135
Iodine, methylsulfonylmethane—Sales restrictions—Recording of transactions—Penalties.

Chapter 69.43 RCW

PRECURSOR DRUGS

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Iodine matrix" means iodine at a concentration greater than two percent by weight in a matrix or solution.

(b) "Matrix" means something, as a substance, in which something else originates, develops, or is contained.

(c) "Methylsulfonylmethane" means methylsulfonylmethane in its powder form only, and does not include products containing methylsulfonylmethane in other forms such as liquids, tablets, capsules not containing methylsulfonylmethane in pure powder form, ointments, creams, cosmetics, foods, and beverages.

(2) Any person who knowingly purchases in a thirty-day period or possesses any quantity of iodine in its elemental form, an iodine matrix, or more than two pounds of methylsulfonylmethane is guilty of a gross misdemeanor, except as provided in subsection (3) of this section.

(3) Subsection (2) of this section does not apply to:

(a) A person who possesses iodine in its elemental form or an iodine matrix as a prescription drug, under a prescription issued by a licensed veterinarian, physician, or advanced registered nurse practitioner;

(b) A person who possesses iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane in its powder form and is actively engaged in the practice of animal husbandry of livestock;

(c) A person who possesses iodine in its elemental form or an iodine matrix in conjunction with experiments conducted in a chemistry or chemistry-related laboratory maintained by a:

(i) Public or private secondary school;

(ii) Public or private institution of higher education that is accredited by a regional or national accrediting agency recognized by the United States department of education;

(iii) Manufacturing facility, government agency, or research facility in the course of lawful business activities;

(d) A veterinarian, physician, advanced registered nurse practitioner, pharmacist, retail distributor, wholesaler, manufacturer, warehouse operator, or common carrier, or an agent of any of these persons who possesses iodine in its elemental form, an iodine matrix, or methylsulfonylmethane in its powder form in the regular course of lawful business activities; or

(e) A person working in a general hospital who possesses iodine in its elemental form or an iodine matrix in the regular course of employment at the hospital.

(4) Any person who purchases any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane must present an identification card or driver's license issued by any state in the United States or jurisdiction of another country before purchasing the item.

(5) The Washington state patrol shall develop a form to be used in recording transactions involving iodine in its elemental form, an iodine matrix, or methylsulfonylmethane. A person who sells or otherwise transfers any quantity of iodine in its elemental form, an iodine matrix, or any quantity of methylsulfonylmethane to a person for any purpose authorized in subsection (3) of this section must record each sale or transfer. The record must be made on the form developed by the Washington state patrol and must be retained by the person for at least three years. The Washington state patrol or any local law enforcement agency may request access to the records.

(a) Failure to make or retain a record required under this subsection is a misdemeanor.

(b) Failure to comply with a request for access to records required under this subsection to the Washington state patrol or a local law enforcement agency is a misdemeanor.

[2011 c 336 § 838; 2006 c 188 § 1.]

69.43.140

Civil penalty—Pharmacy quality assurance commission waiver.

(1) In addition to the other penalties provided for in this chapter or in chapter 18.64 RCW, the pharmacy quality assurance commission may impose a civil penalty, not to exceed ten thousand dollars for each violation, on any licensee or registrant who has failed to comply with this chapter or the rules adopted under this chapter. In the case of a continuing violation, every day the violation continues shall be considered a separate violation.

(2) The pharmacy quality assurance commission may waive the suspension or revocation of a license or registration issued under chapter 18.64 RCW, or waive any civil penalty under this chapter, if the licensee or registrant establishes that he or she acted in good faith to prevent violations of this chapter, and the violation occurred despite the licensee's or registrant's exercise of due diligence. In making such a determination, the pharmacy quality assurance commission may consider evidence that an employer trained employees on how to sell, transfer, or otherwise furnish substances specified in RCW 69.43.010(1) in accordance with applicable laws.

[2013 c 19 § 78; 2001 c 96 § 12.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.150

Application of chapter to local government.

This chapter is applicable and uniform throughout this state and in all counties, cities, code cities, and towns therein. A county, city, code city, or town may not adopt or enforce any ordinance, pertaining to this chapter, which prohibits conduct that is not prohibited under this chapter, or defining violations or penalties different from those provided under this chapter. However, this section does not preclude a county, city, code city, or town from revoking, canceling, suspending, or otherwise limiting a business or professional license it has issued for conduct that violates any provision of this chapter.

[2001 c 96 § 13.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.160

Ephedrine, pseudoephedrine, phenylpropanolamine—Methods to prevent sales violations—Department of health preparation of sign summarizing prohibitions.

(1) To prevent violations of RCW 69.43.110, every licensee and registrant under chapter 18.64 RCW, who sells at retail any products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall do either or may do both of the following:

(a) Program scanners, cash registers, or other electronic devices used to record sales in a manner that will alert persons handling transactions to potential violations of RCW 69.43.110(1) and/or prevent such violations; or

(b) Place one or more signs on the premises to notify customers of the prohibitions of RCW 69.43.110. Any such sign may, but is not required to, conform to the language and format prepared by the department of health under subsection (2) of this section.

(2) The department of health shall prepare language and format for a sign summarizing the prohibitions in RCW 69.43.110 and 69.43.120 and make the language and format available to licensees and registrants under chapter 18.64 RCW, for voluntary use in their places of business to inform customers and employees of the prohibitions. Nothing in this section requires the department of health to provide licensees or registrants with copies of signs, or any licensee or registrant to use the specific language or format prepared by the department under this subsection.

[2001 c 96 § 14.]

NOTES:

Intent—Severability—2001 c 96: See notes following RCW 69.43.010.

69.43.165

Ephedrine, pseudoephedrine, phenylpropanolamine—Electronic sales tracking system—Pharmacy quality assurance commission authority to adopt rules.

(1) The pharmacy quality assurance commission shall implement a real-time electronic sales tracking system to monitor the nonprescription sale of products in this state containing any detectable quantity of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, provided that the system is available to the state without cost for accessing the system to the state or retailers. The commission is authorized to enter into a public-private partnership, through a memorandum of understanding or similar arrangement, to make the system available.

(2) The records submitted to the tracking system are for the confidential use of the pharmacy, shopkeeper, or itinerant vendor who submitted them, except that:

(a) The records must be produced in court when lawfully required;

(b) The records must be open for inspection by the pharmacy quality assurance commission; and

(c) The records must be available to any general or limited authority Washington peace officer to enforce the provisions of this chapter or to federal law enforcement officers in accordance with rules adopted by the pharmacy quality assurance commission regarding the privacy of the purchaser of products covered by chapter 182, Laws of 2010 and law enforcement access to the records submitted to the tracking system as provided in this section consistent with the federal combat meth act.

(3) The electronic sales tracking system shall be capable of generating a stop sale alert, which shall be a notification that completion of the sale would result in the seller or purchaser violating the quantity limits in RCW 69.43.110 (1) and (2). The system shall contain an override function for use by a dispenser of ephedrine, pseudoephedrine, phenylpropanolamine, or their salts, isomers, or salts of isomers, who has a reasonable fear of imminent bodily harm. Each instance in which the override function is utilized shall be logged by the system.

(4) The pharmacy quality assurance commission shall have the authority to adopt rules necessary to implement and enforce the provisions of this section. The pharmacy quality assurance commission shall adopt rules regarding the privacy of the purchaser of products covered by chapter 182, Laws of 2010, and any public or law enforcement access to the records submitted to the tracking system as provided in subsection (2)(c) of this section consistent with the federal combat meth act.

(5) The pharmacy quality assurance commission may not raise licensing or registration fees to fund the rule making or implementation of this section.
[2013 c 19 § 79; 2010 c 182 § 3.]

69.43.168
Pharmacy, shopkeeper, or itinerant vendor—Electronic sales tracking system—Liability.

A pharmacy, shopkeeper, or itinerant vendor participating in the electronic sales tracking system under RCW 69.43.110(4):

(1) Is not liable for civil damages resulting from any act or omission in carrying out the requirements of RCW 69.43.110(4), other than an act or omission constituting gross negligence or willful or wanton misconduct; and

(2) Is not liable for civil damages resulting from a data breach that was proximately caused by a failure on the part of the electronic sales tracking system to take reasonable care through the use of industry standard levels of encryption to guard against unauthorized access to account information that is in the possession or control of the system.
[2010 c 182 § 4.]

69.43.180
Expansion of log requirements—Petition by law enforcement.

(1) The Washington association of sheriffs and police chiefs or the Washington state patrol may petition the pharmacy quality assurance commission to apply the log requirements in *RCW 69.43.170 to one or more products that contain ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, that is not the only active ingredient and that is in liquid, liquid capsule, or gel capsule form. The petition shall establish that:

(a) Ephedrine, pseudoephedrine, or phenylpropanolamine can be effectively extracted from the product and converted into methamphetamine or another controlled dangerous substance; and

(b) Law enforcement, the Washington state patrol, or the department of ecology are finding substantial evidence that the product is being used for the illegal manufacture of methamphetamine or another controlled dangerous substance.

(2) The pharmacy quality assurance commission shall adopt rules when a petition establishes that requiring the application of the log requirements in *RCW 69.43.170 to the sale of the product at retail is warranted based upon the effectiveness and extent of use of the product for the illegal manufacture of methamphetamine or other controlled dangerous substances and the extent of the burden of any restrictions upon consumers. The pharmacy quality assurance commission may adopt emergency rules to apply the log requirements to the sale of a product when the petition establishes that the immediate restriction of the product is necessary in order to protect public health and safety.
[2013 c 19 § 80; 2005 c 388 § 3.]

NOTES:

*__Reviser's note:__ RCW 69.43.170 was repealed by 2010 c 182 § 6.

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Chapter 69.43 RCW

PRECURSOR DRUGS

69.43.190

Products found at methamphetamine sites—Report.

Each county sheriff shall compile and maintain a record of commercial products containing ephedrine, pseudoephedrine, or phenylpropanolamine and packaging found at methamphetamine laboratory sites. The data shall be forwarded to the Washington association of sheriffs and police chiefs and shall be reported to the legislature by November 1, 2007, and annually thereafter.

[2005 c 388 § 9.]

NOTES:

Finding—Effective dates—Severability—2005 c 388: See notes following RCW 69.43.105.

Chapter 69.45 RCW

DRUG SAMPLES

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69.45.040	Storage and transportation of drug samples—Disposal of samples which have exceeded their expiration dates.
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69.45.010

Definitions.

The definitions in this section apply throughout this chapter.

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

(2) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.

(3) "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.

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

(5) "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.

(6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.

(7) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.

(8) "Legend drug" means any drug that is required by state law or by regulations of the commission to be dispensed on prescription only or is restricted to use by practitioners only.

(9) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.

(10) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

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

(12) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, 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 pharmacist

under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter 18.79 RCW when authorized to prescribe by the nursing care quality assurance commission, an osteopathic physician assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, or a physician assistant under chapter 18.71A RCW when authorized by the medical quality assurance commission.

(13) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

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

[2013 c 19 § 81; 1994 sp.s. c 9 § 738; 1989 1st ex.s. c 9 § 444; 1987 c 411 § 1.]

NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.45.020

Registration of manufacturers—Additional information required by the department.

A manufacturer that intends to distribute drug samples in this state shall register annually with the department, providing the name and address of the manufacturer, and shall:

(1) Provide a twenty-four hour telephone number and the name of the individual(s) who shall respond to reasonable official inquiries from the department, as directed by the commission, based on reasonable cause, regarding required records, reports, or requests for information pursuant to a specific investigation of a possible violation. Each official request by the department and each response by a manufacturer shall be limited to the information specifically relevant to the particular official investigation. Requests for the address of sites in this state at which drug samples are stored by the manufacturer's representative and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples shall be responded to as soon as possible but not later than the close of business on the next business day following the request; or

(2) If a twenty-four hour telephone number is not available, provide the addresses of sites in this state at which drug samples are stored by the manufacturer's representative, and the names and addresses of the individuals who are responsible for the storage or distribution of the drug samples. The manufacturer shall annually submit a complete updated list of the sites and individuals to the department.

[2013 c 19 § 82; 1989 1st ex.s. c 9 § 445; 1987 c 411 § 2.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.45.030

Records maintained by manufacturer—Report of loss or theft of drug samples—Reports of practitioners receiving controlled substance drug samples.

Chapter 69.45 RCW

DRUG SAMPLES

(1) The following records shall be maintained by the manufacturer distributing drug samples in this state and shall be available for inspection by authorized representatives of the department based on reasonable cause and pursuant to an official investigation:

(a) An inventory of drug samples held in this state for distribution, taken at least annually by a representative of the manufacturer other than the individual in direct control of the drug samples;

(b) Records or documents to account for all drug samples distributed, destroyed, or returned to the manufacturer. The records shall include records for sample drugs signed for by practitioners, dates and methods of destruction, and any dates of returns; and

(c) Copies of all reports of lost or stolen drug samples.

(2) All required records shall be maintained for two years and shall include transaction dates.

(3) Manufacturers shall report to the department the discovery of any loss or theft of drug samples as soon as possible but not later than the close of business on the next business day following the discovery.

(4) Manufacturers shall report to the department as frequently as, and at the same time as, their other reports to the federal drug enforcement administration, or its lawful successor, the name, address and federal registration number for each practitioner who has received controlled substance drug samples and the name, strength and quantity of the controlled substance drug samples distributed.

[1989 1st ex.s. c 9 § 446; 1987 c 411 § 3.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.45.040

Storage and transportation of drug samples—Disposal of samples which have exceeded their expiration dates.

(1) Drug samples shall be stored in compliance with the requirements of federal and state laws, rules, and regulations.

(2) Drug samples shall be maintained in a locked area to which access is limited to persons authorized by the manufacturer.

(3) Drug samples shall be stored and transported in such a manner as to be free of contamination, deterioration, and adulteration.

(4) Drug samples shall be stored under conditions of temperature, light, moisture, and ventilation so as to meet the label instructions for each drug.

(5) Drug samples which have exceeded the expiration date shall be physically separated from other drug samples until disposed of or returned to the manufacturer.

[1987 c 411 § 4.]

69.45.050

Distribution of drug samples—Written request—No fee or charge permitted—Possession of legend drugs or controlled substances by manufacturers' representatives.

(1) Drug samples may be distributed by a manufacturer or a manufacturer's representative only to practitioners legally authorized to prescribe such drugs or, at the request of such practitioner, to pharmacies of hospitals or other health care entities. The recipient of the drug sample must execute a written receipt upon delivery that is returned to the manufacturer or the manufacturer's representative.

(2) Drug samples may be distributed by a manufacturer or a manufacturer's representative only to a practitioner legally authorized to prescribe such drugs pursuant to a written request for such samples. The request shall contain:

(a) The recipient's name, address, and professional designation;

(b) The name, strength, and quantity of the drug samples delivered;

(c) The name or identification of the manufacturer and of the individual distributing the drug sample; and

(d) The dated signature of the practitioner requesting the drug sample.

(3) No fee or charge may be imposed for sample drugs distributed in this state.

(4) A manufacturer's representative shall not possess legend drugs or controlled substances other than those distributed by the manufacturer they represent. Nothing in this section prevents a manufacturer's representative from possessing a legally prescribed and dispensed legend drug or controlled substance.

[1989 c 164 § 2; 1987 c 411 § 5.]

NOTES:

Legislative finding—1989 c 164: "The legislature finds that chapter 69.45 RCW is more restrictive than the federal prescription drug marketing act of 1987, and the legislature further finds that a change in chapter 69.45 RCW accepting the position of the federal law is beneficial to the citizens of this state." [1989 c 164 § 1.]

69.45.060

Disposal of surplus, outdated, or damaged drug samples.

Surplus, outdated, or damaged drug samples shall be disposed of as follows:

(1) Returned to the manufacturer; or

(2) Witnessed destruction by such means as to assure that the drug cannot be retrieved. However, controlled substances shall be returned to the manufacturer or disposed of in accordance with rules adopted by the commission: PROVIDED, That the commission shall adopt by rule the regulations of the federal drug enforcement administration or its lawful successor unless, stating reasonable grounds, it adopts rules consistent with such regulations.

[2013 c 19 § 83; 1987 c 411 § 6.]

69.45.070

Registration fees—Penalty.

The department may charge reasonable fees for registration. The registration fee shall not exceed the fee charged by the department for a pharmacy location license. If the registration fee is not paid on or before the date due, a renewal or new registration may be issued only upon payment of the registration renewal fee and a penalty fee equal to the registration renewal fee.

[1991 c 229 § 8; 1989 1st ex.s. c 9 § 447; 1987 c 411 § 7.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Chapter 69.45 RCW

DRUG SAMPLES

69.45.080

Violations of chapter—Manufacturer's liability—Penalty—Seizure of drug samples.

(1) The manufacturer is responsible for the actions and conduct of its representatives with regard to drug samples.

(2) The commission may hold a public hearing to examine a possible violation and may require a designated representative of the manufacturer to attend.

(3) If a manufacturer fails to comply with this chapter following notification by the commission, the commission may impose a civil penalty of up to five thousand dollars. The commission shall take no action to impose any civil penalty except pursuant to a hearing held in accordance with chapter 34.05 RCW.

(4) Specific drug samples which are distributed in this state in violation of this chapter, following notification by the commission, shall be subject to seizure following the procedures set out in RCW 69.41.060.
[2013 c 19 § 84; 1987 c 411 § 8.]

69.45.090

Confidentiality.

All records, reports, and information obtained by the commission from or on behalf of a manufacturer or manufacturer's representative under this chapter are confidential and exempt from public inspection and copying under chapter 42.56 RCW. This section does not apply to public disclosure of the identity of persons found by the commission to have violated state or federal law, rules, or regulations. This section is not intended to restrict the investigations and proceedings of the commission so long as the commission maintains the confidentiality required by this section.
[2013 c 19 § 85; 2005 c 274 § 330; 1987 c 411 § 9.]

NOTES:

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

69.45.900

Severability—1987 c 411.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
[1987 c 411 § 12.]

Chapter 69.50 RCW

UNIFORM CONTROLLED SUBSTANCES ACT

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69.50.101

Definitions.

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

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

(e) "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.

(f)(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, 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.

(g) "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.

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

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

(j) "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.

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

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

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

(n) "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.

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

(p) "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.

(q) "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.

(r) "Isomer" means an optical isomer, but in subsection (dd)(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.

(s) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-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.

(t) "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 marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(u) "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.

(v) "Marijuana" or "marihuana" 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 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.

(w) "Marijuana 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.

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

(y) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(z) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

(bb) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

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

(dd) "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 subparagraphs (1) through (7).

(ee) "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.

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

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

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

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

(jj) "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 osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; 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 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 quality assurance 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.

(kk) "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.

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

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

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

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

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

(qq) "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.

(rr) "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 marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(ss) "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.

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

[2015 2nd sp.s. c 4 § 901; 2015 c 70 § 4; 2014 c 192 § 1. Prior: 2013 c 276 § 2; 2013 c 116 § 1; 2013 c 12 § 2; prior: 2013 c 3 § 2 (Initiative Measure No. 502, approved November 6, 2012); 2012 c 8 § 1; 2010 c 177 § 1; 2003 c 142 § 4; 1998 c 222 § 3; 1996 c 178 § 18; 1994 sp.s. c 9 § 739; 1993 c 187 § 1; prior: 1990 c 248 § 1; 1990 c 219 § 3; 1990 c 196 § 8; 1989 1st ex.s. c 9 § 429; 1987 c 144 § 2; 1986 c 124 § 1; 1984 c 153 § 18; 1980 c 71 § 2; 1973 2nd ex.s. c 38 § 1; 1971 ex.s. c 308 § 69.50.101.]

NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Effective date—2013 c 116: "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 immediately [May 1, 2013]." [2013 c 116 § 2.]

Intent—2013 c 3 (Initiative Measure No. 502): "The people intend to stop treating adult marijuana use as a crime and try a new approach that:

(1) Allows law enforcement resources to be focused on violent and property crimes;

(2) Generates new state and local tax revenue for education, health care, research, and substance abuse prevention; and

(3) Takes marijuana out of the hands of illegal drug organizations and brings it under a tightly regulated, state-licensed system similar to that for controlling hard alcohol.

This measure authorizes the state liquor control board to regulate and tax marijuana for persons twenty-one years of age and older, and add a new threshold for driving under the influence of marijuana." [2013 c 3 § 1 (Initiative Measure No. 502, approved November 6, 2012).]

Severability—2003 c 142: See note following RCW 18.53.010.

Effective date—1996 c 178: See note following RCW 18.35.110.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Finding—1990 c 219: See note following RCW 69.41.030.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1973 2nd ex.s. c 38: "If any of the provisions of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the amendatory act, or the application of the provision to other persons or circumstances, or the act prior to its amendment is not affected." [1973 2nd ex.s. c 38 § 3.]

69.50.1011

Definition—Commission.

"Commission" means the pharmacy quality assurance commission.

[2013 c 19 § 86.]

69.50.102

Drug paraphernalia—Definitions.

(a) As used in this chapter, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in cutting controlled substances;

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;

(8) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(9) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(11) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

(12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:

(i) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) Water pipes;

(iii) Carburetion tubes and devices;

(iv) Smoking and carburetion masks;

(v) Roach clips: Meaning objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;

(vi) Miniature cocaine spoons, and cocaine vials;

(vii) Chamber pipes;

(viii) Carburetor pipes;

(ix) Electric pipes;

(x) Air-driven pipes;

(xi) Chillums;

(xii) Bongs; and

(xiii) Ice pipes or chillers.

(b) In determining whether an object is drug paraphernalia under this section, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use;

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

(3) The proximity of the object, in time and space, to a direct violation of this chapter;

(4) The proximity of the object to controlled substances;

(5) The existence of any residue of controlled substances on the object;

(6) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter shall not prevent a finding that the object is intended or designed for use as drug paraphernalia;

(7) Instructions, oral or written, provided with the object concerning its use;

(8) Descriptive materials accompanying the object which explain or depict its use;

(9) National and local advertising concerning its use;

(10) The manner in which the object is displayed for sale;

(11) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

(12) Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

(13) The existence and scope of legitimate uses for the object in the community; and

(14) Expert testimony concerning its use.

[2012 c 117 § 366; 1981 c 48 § 1.]

NOTES:

Severability—1981 c 48: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 48 § 4.]

69.50.201

Enforcement of chapter—Authority to change schedules of controlled substances.

(a) The commission shall enforce this chapter and may add substances to or delete or reschedule substances listed in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the procedures of chapter 34.05 RCW.

(1) In making a determination regarding a substance, the commission shall consider the following:

(i) the actual or relative potential for abuse;

(ii) the scientific evidence of its pharmacological effect, if known;

(iii) the state of current scientific knowledge regarding the substance;

(iv) the history and current pattern of abuse;

(v) the scope, duration, and significance of abuse;

(vi) the risk to the public health;

(vii) the potential of the substance to produce psychic or physiological dependence liability; and

(viii) whether the substance is an immediate precursor of a controlled substance.

(2) The commission may consider findings of the federal Food and Drug Administration or the Drug Enforcement Administration as prima facie evidence relating to one or more of the determinative factors.

(b) After considering the factors enumerated in subsection (a) of this section, the commission shall make findings with respect thereto and adopt and cause to be published a rule controlling the substance upon finding the substance has a potential for abuse.

(c) The commission, without regard to the findings required by subsection (a) of this section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211 or the procedures prescribed by subsections (a) and (b) of this section, may place an immediate precursor in the same schedule in which the controlled substance of which it is an immediate precursor is placed or in any other schedule. If the commission designates a substance as an immediate precursor, substances that are precursors of the controlled precursor are not subject to control solely because they are precursors of the controlled precursor.

(d) If a substance is designated, rescheduled, or deleted as a controlled substance under federal law, the commission shall similarly control the substance under this chapter after the expiration of thirty days from the date of publication in the federal register of a final order designating the substance as a controlled substance or rescheduling or deleting the substance or from the date of issuance of an order of temporary scheduling under Section 508 of the federal Dangerous Drug Diversion Control Act of 1984, 21 U.S.C. Sec. 811(h), unless within that thirty-day period, the commission or an interested party objects to inclusion, rescheduling, temporary scheduling, or deletion. If no objection is made, the commission shall adopt and cause to be published, without the necessity of making determinations or findings as required by subsection (a) of this

section or RCW 69.50.203, 69.50.205, 69.50.207, 69.50.209, and 69.50.211, a final rule, for which notice of proposed rule making is omitted, designating, rescheduling, temporarily scheduling, or deleting the substance. If an objection is made, the commission shall make a determination with respect to the designation, rescheduling, or deletion of the substance as provided by subsection (a) of this section. Upon receipt of an objection to inclusion, rescheduling, or deletion under this chapter by the commission, the commission shall publish notice of the receipt of the objection, and control under this chapter is stayed until the commission adopts a rule as provided by subsection (a) of this section.

(e) The commission, by rule and without regard to the requirements of subsection (a) of this section, may schedule a substance in Schedule I regardless of whether the substance is substantially similar to a controlled substance in Schedule I or II if the commission finds that scheduling of the substance on an emergency basis is necessary to avoid an imminent hazard to the public safety and the substance is not included in any other schedule or no exemption or approval is in effect for the substance under Section 505 of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 355. Upon receipt of notice under RCW 69.50.214, the commission shall initiate scheduling of the controlled substance analog on an emergency basis pursuant to this subsection. The scheduling of a substance under this subsection expires one year after the adoption of the scheduling rule. With respect to the finding of an imminent hazard to the public safety, the commission shall consider whether the substance has been scheduled on a temporary basis under federal law or factors set forth in subsection (a)(1)(iv), (v), and (vi) of this section, and may also consider clandestine importation, manufacture, or distribution, and, if available, information concerning the other factors set forth in subsection (a)(1) of this section. A rule may not be adopted under this subsection until the commission initiates a rule-making proceeding under subsection (a) of this section with respect to the substance. A rule adopted under this subsection must be vacated upon the conclusion of the rule-making proceeding initiated under subsection (a) of this section with respect to the substance.

(f) Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Titles 66 and 26 RCW.

[2013 c 19 § 87; 1998 c 245 § 108; 1993 c 187 § 2; 1989 1st ex.s. c 9 § 430; 1986 c 124 § 2; 1971 ex.s. c 308 § 69.50.201.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.202

Nomenclature.

The controlled substances listed or to be listed in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 are included by whatever official, common, usual, chemical, or trade name designated.

[1971 ex.s. c 308 § 69.50.202.]

69.50.203

Schedule I tests.

(a) The commission shall place a substance in Schedule I upon finding that the substance:

(1) has high potential for abuse;

(2) has no currently accepted medical use in treatment in the United States; and

(3) lacks accepted safety for use in treatment under medical supervision.

(b) The commission may place a substance in Schedule I without making the findings required by subsection (a) of this section if the substance is controlled under Schedule I of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

[2013 c 19 § 88; 1993 c 187 § 3; 1971 ex.s. c 308 § 69.50.203.]

69.50.204

Schedule I.

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxeridine;

(29) Furethidine;

(30) Hydroxypethidine;
(31) Ketobemidone;
(32) Levomoramide;
(33) Levophenacylmorphan;
(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylprop anamide);
(35) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
(36) Morpheridine;
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
(38) Noracymethadol;
(39) Norlevorphanol;
(40) Normethadone;
(41) Norpipanone;
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);
(43) PEPAP(1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(44) Phenadoxone;
(45) Phenampromide;
(46) Phenomorphan;
(47) Phenoperidine;
(48) Piritramide;
(49) Proheptazine;
(50) Properidine;
(51) Propiram;
(52) Racemoramide;
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanaminde);
(54) Tilidine;
(55) Trimeperidine.

(b) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;
(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine, except hydrochloride salt;
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;

(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(c) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:

(1) Alpha-ethyltryptamine: Some trade or other names: Etryptamine; monase; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; a-ET; and AET;

(2) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(3) 4-bromo-2,5-dimethoxyphenethylamine: Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, nexus;

(4) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(5) 2,5-dimethoxy-4-ethylamphetamine (DOET);

(6) 2,5-dimethoxy-4-(n)-propylthiophenethylamine: Other name: 2C-T-7;

(7) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(8) 5-methoxy-3,4-methylenedioxy-amphetamine;

(9) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(10) 3,4-methylenedioxy amphetamine;

(11) 3,4-methylenedioxymethamphetamine (MDMA);

(12) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(13) N-hydroxy-3,4-methylenedioxyamphetamine also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine,N-hydroxy MDA;

(14) 3,4,5-trimethoxy amphetamine;

(15) Alpha-methyltryptamine: Other name: AMT;

(16) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(17) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(18) Dimethyltryptamine: Some trade or other names: DMT;

(19) 5-methoxy-N,N-diisopropyltryptamine: Other name: 5-MeO-DIPT;

(20) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(21) Lysergic acid diethylamide;

(22) Marihuana or marijuana;

(23) Mescaline;

(24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(25) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every

compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

(26) N-ethyl-3-piperidyl benzilate;

(27) N-methyl-3-piperidyl benzilate;

(28) Psilocybin;

(29) Psilocyn;

(30) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus Cannabis (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, species, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

(iii) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers; or

(iv) That is chemically synthesized and either:

(a) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or

(b) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1phenylcyclohexalymine, (1-phenylcyclohexl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexly)-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) Gamma-hydroxybutyric acid: Some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate;

(2) Mecloqualone;

(3) Methaqualone.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex: Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4, 5-dihydro-5-phenly-2-oxazolamine;

(2) N-Benzylpiperazine: Some other names: BZP,1-benzylpiperazine;

(3) Cathinone, also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone;

(4) Fenethylline;

(5) Methcathinone: Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(6) (+-)cis-4-methylaminorex ((+-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(7) N-ethylamphetamine;

(8) N,N-dimethylamphetamine: Some trade or other names: N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenoethylene.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

[2015 2nd sp.s. c 4 § 1203; 2010 c 177 § 2; 1993 c 187 § 4; 1986 c 124 § 3; 1980 c 138 § 1; 1971 ex.s. c 308 § 69.50.204.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.205

Schedule II tests.

(a) The commission shall place a substance in Schedule II upon finding that:

(1) the substance has high potential for abuse;

(2) the substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and

(3) the abuse of the substance may lead to severe psychological or physical dependence.

(b) The commission may place a substance in Schedule II without making the findings required by subsection (a) of this section if the substance is controlled under Schedule II of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

[2013 c 19 § 89; 1993 c 187 § 5; 1971 ex.s. c 308 § 69.50.205.]

69.50.206

Schedule II.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw opium;

(ii) Opium extracts;

(iii) Opium fluid;

(iv) Powdered opium;

(v) Granulated opium;

(vi) Tincture of opium;
(vii) Codeine;
(viii) Dihydroetorphine;
(ix) Ethylmorphine;
(x) Etorphine hydrochloride;
(xi) Hydrocodone;
(xii) Hydromorphone;
(xiii) Metopon;
(xiv) Morphine;
(xv) Oripavine;
(xvi) Oxycodone;
(xvii) Oxymorphone; and
(xviii) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof that is chemically equivalent or identical with any of the substances referred to in subsection (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves including cocaine and ecgonine, and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (The crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.)

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following synthetic opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;
(2) Alphaprodine;
(3) Anileridine;
(4) Bezitramide;
(5) Bulk dextropropoxyphene (nondosage forms);
(6) Carfentanil;
(7) Dihydrocodeine;
(8) Diphenoxylate;
(9) Fentanyl;
(10) Isomethadone;
(11) Levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;
(12) Levomethorphan;
(13) Levorphanol;
(14) Metazocine;
(15) Methadone;
(16) Methadone—Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;
(17) Moramide—Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

(18) Pethidine (meperidine);
(19) Pethidine—Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
(20) Pethidine—Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
(21) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
(22) Phenazocine;
(23) Piminodine;
(24) Racemethorphan;
(25) Racemorphan;
(26) Remifentanil;
(27) Sufentanil;
(28) Tapentadol.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
(2) Methamphetamine, its salts, isomers, and salts of its isomers;
(3) Phenmetrazine and its salts;
(4) Methylphenidate;
(5) Lisdexamfetamine, its salts, isomers, and salts of its isomers.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;
(2) Glutethimide;
(3) Pentobarbital;
(4) Phencyclidine;
(5) Secobarbital.

(f) Hallucinogenic substances.

Nabilone: Some trade or other names are (±)-trans3-(1,1-dimethlheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzol[b,d]pyran-9-one.

(g) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;
(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

[2010 c 177 § 3; 1993 c 187 § 6; 1986 c 124 § 4; 1980 c 138 § 2; 1971 ex.s. c 308 § 69.50.206.]

NOTES:

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

Chapter 69.50 RCW

UNIFORM CONTROLLED SUBSTANCES ACT

69.50.207

Schedule III tests.

(a) The commission shall place a substance in Schedule III upon finding that:

(1) the substance has a potential for abuse less than the substances included in Schedules I and II;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

(b) The commission may place a substance in Schedule III without making the findings required by subsection (a) of this section if the substance is controlled under Schedule III of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.
[2013 c 19 § 90; 1993 c 187 § 7; 1971 ex.s. c 308 § 69.50.207.]

69.50.208

Schedule III.

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule III:

(a) Stimulants. Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Any compound, mixture, or preparation in dosage unit form containing any stimulant substance included in Schedule II and which was listed as an excepted compound on August 25, 1971, pursuant to the federal Controlled Substances Act, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of controlled substances;

(2) Benzphetamine;

(3) Chlorphentermine;

(4) Clortermine;

(5) Phendimetrazine.

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;

(2) Any suppository dosage form containing:

(i) Amobarbital;

(ii) Secobarbital;

(iii) Pentobarbital;

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;

(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) Embutramide;

(6) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under section 505 of the federal food, drug, and cosmetic act;

(7) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: (<plus-minus>)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone;

(8) Lysergic acid;

(9) Lysergic acid amide;

(10) Methyprylon;

(11) Sulfondiethylmethane;

(12) Sulfonethylmethane;

(13) Sulfonmethane;

(14) Tiletamine and zolazepam or any of their salts—some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one flupyrazapon.

(c) Nalorphine.

(d) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts: Buprenorphine.

(f) Hallucinogenic substances. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved product. Some other names for dronabinol: [6a R-trans]-6a,7,8, 10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d] pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(g) Anabolic steroids. The term "anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone, that promotes muscle growth and includes:

(1) 3β,17-dihydroxy-5a-androstane;
(2) 3α,17β-dihydroxy-5a-androstane;
(3) 5α-androstan-3,17-dione;
(4) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);
(5) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);
(6) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene);
(7) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);
(8) 1-androstenedione ([5α]-androst-1-en-3,17-dione);
(9) 4-androstenedione (androst-4-en-3,17-dione);
(10) 5-androstenedione (androst-5-en-3,17-dione);
(11) Bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);
(12) Boldenone (17β-hydroxyandrost-1,4,-diene-3-one);
(13) Calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);
(14) Clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);
(15) Dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);
(16) Δ1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);
(17) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);
(18) Drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);
(19) Ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);
(20) Fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);
(21) Formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);
(22) Furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);
(23) 13β-ethyl-17β-hydroxygon-4-en-3-one;
(24) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);
(25) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);
(26) Mestanolone (17α-methyl-17β-hydroxy-5-androstan-3-one);
(27) Mesterolone (1α methyl-17β-hydroxy-[5α]-androstan-3-one);
(28) Methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);
(29) Methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);
(30) Methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);
(31) 17α-methyl-3β,17β-dihydroxy-5a-androstane;
(32) 17α-methyl-3α,17β-dihydroxy-5a-androstane;
(33) 17α-methyl-3β,17β-dihydroxyandrost-4-ene;
(34) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);
(35) Methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);
(36) Methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);
(37) Methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);
(38) Mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);
(39) 17α-methyl-Δ1-dihydrotestosterone (17bβ-hydroxy-17α-methyl-5α-androst-1-en-3-one) (also known as '17-α-methyl-1-testosterone');
(40) Nandrolone (17β-hydroxyestr-4-en-3-one);
(41) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);
(42) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

(43) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene);
(44) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);
(45) 19-nor-4-androstenedione (estr-4-en-3,17-dione);
(46) 19-nor-5-androstenedione (estr-5-en-3,17-dione);
(47) Norbolethone (13β, 17α-diethyl-17β-hydroxygon-4-en-3-one);
(48) Norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);
(49) Norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);
(50) Normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);
(51) Oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);
(52) Oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);
(53) Oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);
(54) Stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);
(55) Stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);
(56) Testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);
(57) Testosterone (17β-hydroxyandrost-4-en-3-one);
(58) Tetrahydrogestrinone (13β, 17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);
(59) Trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and
(60) Any salt, ester, or ether of a drug or substance described in this section. Such term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the secretary of the department of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, the person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this section.

The commission may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsection (a)(1) and (2) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances having a stimulant or depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

[2013 c 19 § 91; 2010 c 177 § 4; 1993 c 187 § 8; 1986 c 124 § 5; 1980 c 138 § 3; 1971 ex.s. c 308 § 69.50.208.]

NOTES:

Commission may change schedules of controlled substances: RCW 69.50.201.

69.50.209

Schedule IV tests.

(a) The commission shall place a substance in Schedule IV upon finding that:
(1) the substance has a low potential for abuse relative to substances in Schedule III;
(2) the substance has currently accepted medical use in treatment in the United States; and
(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule III.

(b) The commission may place a substance in Schedule IV without making the findings required by subsection (a) of this section if the substance is controlled under Schedule IV of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

[2013 c 19 § 92; 1993 c 187 § 9; 1971 ex.s. c 308 § 69.50.209.]

69.50.210
Schedule IV.

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule IV:

(a) Any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).

(b) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Carisoprodol;
(6) Chloral betaine;
(7) Chloral hydrate;
(8) Chlordiazepoxide;
(9) Clobazam;
(10) Clonazepam;
(11) Clorazepate;
(12) Clotiazepam;
(13) Cloxazolam;
(14) Delorazepam;
(15) Diazepam;
(16) Dichloralphenazone;
(17) Estazolam;
(18) Ethchlorvynol;
(19) Ethinamate;
(20) Ethyl loflazepate;
(21) Fludiazepam;
(22) Flunitrazepam;
(23) Flurazepam;
(24) Halazepam;
(25) Haloxazolam;
(26) Ketazolam;
(27) Loprazolam;
(28) Lorazepam;
(29) Lormetazepam;

(30) Mebutamate;
(31) Medazepam;
(32) Meprobamate;
(33) Methohexital;
(34) Methylphenobarbital (mephobarbital);
(35) Midazolam;
(36) Nimetazepam;
(37) Nitrazepam;
(38) Nordiazepam;
(39) Oxazepam;
(40) Oxazolam;
(41) Paraldehyde;
(42) Petrichloral;
(43) Phenobarbital;
(44) Pinazepam;
(45) Prazepam;
(46) Quazepam;
(47) Temazepam;
(48) Tetrazepam;
(49) Triazolam;
(50) Zaleplon;
(51) Zolpidem; and
(52) Zopiclone.

(c) Fenfluramine. Any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Cathine((+)norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Modafinil;
(8) Pemoline (including organometallic complexes and chelates thereof);
(9) Phentermine;
(10) Pipradrol;
(11) Sibutramine;
(12) SPA ((-)-1-dimethylamino-1, 2-dephenylethane).

(e) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substance, including its salts:

(1) Pentazocine;
(2) Butorphanol, including its optical isomers.

The commission may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection (b) of this section from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are in combinations, quantity, proportion, or

concentration that vitiate the potential for abuse of the substances having a depressant effect on the central nervous system.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

[2013 c 19 § 93; 2010 c 177 § 5; 1993 c 187 § 10; 1986 c 124 § 6; 1981 c 147 § 2; 1980 c 138 § 4; 1971 ex.s. c 308 § 69.50.210.]

NOTES:

Commission may change schedules of controlled substances: RCW 69.50.201.

69.50.211

Schedule V tests.

(a) The commission shall place a substance in Schedule V upon finding that:

(1) the substance has low potential for abuse relative to the controlled substances included in Schedule IV;

(2) the substance has currently accepted medical use in treatment in the United States; and

(3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances included in Schedule IV.

(b) The commission may place a substance in Schedule V without being required to make the findings required by subsection (a) of this section if the substance is controlled under Schedule V of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

[2013 c 19 § 94; 1993 c 187 § 11; 1971 ex.s. c 308 § 69.50.211.]

69.50.212

Schedule V.

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule V:

(a) Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this subsection, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(b) Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

(c) Depressants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

(1) Lacosamid, [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

(2) Pregabalin{(S)-3-(aminomethyl)-5-methylhexanoic acid}.

The controlled substances listed in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

[2010 c 177 § 6; 1993 c 187 § 12; 1986 c 124 § 7; 1980 c 138 § 5; 1971 ex.s. c 308 § 69.50.212.]

NOTES:

Pharmacy quality assurance commission may change schedules of controlled substances: RCW 69.50.201.

69.50.213

Republishing of schedules.

The commission shall publish updated schedules annually. Failure to publish updated schedules is not a defense in any administrative or judicial proceeding under this chapter.

[2013 c 19 § 95; 1993 c 187 § 13; 1971 ex.s. c 308 § 69.50.213.]

69.50.214

Controlled substance analog.

A controlled substance analog, to the extent intended for human consumption, shall be treated, for the purposes of this chapter, as a substance included in Schedule I. Within thirty days after the initiation of prosecution with respect to a controlled substance analog by indictment or information, the prosecuting attorney shall notify the commission of information relevant to emergency scheduling as provided for in RCW 69.50.201(e). After final determination that the controlled substance analog should not be scheduled, no prosecution relating to that substance as a controlled substance analog may continue or take place.

[2013 c 19 § 96; 1993 c 187 § 14.]

69.50.301

Rules—Fees.

The commission may adopt rules and the department may charge reasonable fees, relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

[2013 c 19 § 97; 1993 c 187 § 15; 1991 c 229 § 9; 1989 1st ex.s. c 9 § 431; 1971 ex.s. c 308 § 69.50.301.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.302

Registration requirements.

(a) Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, shall obtain annually a registration issued by the department in accordance with the commission's rules.

(b) A person registered by the department under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by the registration and in conformity with this Article.

(c) The following persons need not register and may lawfully possess controlled substances under this chapter:

(1) An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if the agent or employee is acting in the usual course of business or employment. This exemption shall not include any agent or employee distributing sample controlled substances to practitioners without an order;

(2) A common or contract carrier or warehouse operator, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(3) An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a substance included in Schedule V.

(d) The commission may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers upon finding it consistent with the public health and safety. Personal practitioners licensed or registered in the state of Washington under the respective professional licensing acts shall not be required to be registered under this chapter unless the specific exemption is denied pursuant to RCW 69.50.305 for violation of any provisions of this chapter.

(e) A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.

(f) The department may inspect the establishment of a registrant or applicant for registration in accordance with rules adopted by the commission.

[2013 c 19 § 98; 2011 c 336 § 839; 1993 c 187 § 16; 1989 1st ex.s. c 9 § 432; 1971 ex.s. c 308 § 69.50.302.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.303

Registration.

(a) The department shall register an applicant to manufacture or distribute controlled substances included in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, and 69.50.212 unless the commission determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the commission shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(2) compliance with applicable state and local law;

(3) promotion of technical advances in the art of manufacturing controlled substances and the development of new substances;

(4) any convictions of the applicant under any laws of another country or federal or state laws relating to any controlled substance;

(5) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion of controlled substances into other than legitimate medical, scientific, research, or industrial channels;

(6) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(7) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(8) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture or distribute controlled substances included in Schedule I or II other than those specified in the registration.

(c) Practitioners must be registered, or exempted under RCW 69.50.302(d), to dispense any controlled substances or to conduct research with controlled substances included in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The commission need not require separate registration under this Article for practitioners engaging in research with nonnarcotic substances included in Schedules II through V where the registrant is already registered under this Article in another capacity. Practitioners registered under federal law to conduct research with substances included in Schedule I may conduct research with substances included in Schedule I within this state upon furnishing the commission evidence of that federal registration.

(d) A manufacturer or distributor registered under the federal Controlled Substances Act, 21 U.S.C. Sec. 801 et seq., may submit a copy of the federal application as an application for registration as a manufacturer or distributor under this section. The commission may require a manufacturer or distributor to submit information in addition to the application for registration under the federal act.

[2013 c 19 § 99; 1993 c 187 § 17; 1989 1st ex.s. c 9 § 433; 1971 ex.s. c 308 § 69.50.303.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.304

Revocation and suspension of registration—Seizure or placement under seal of controlled substances.

(a) A registration, or exemption from registration, under RCW 69.50.303 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the commission upon finding that the registrant has:

(1) furnished false or fraudulent material information in any application filed under this chapter;

(2) been convicted of a felony under any state or federal law relating to any controlled substance;

(3) had the registrant's federal registration suspended or revoked and is no longer authorized by federal law to manufacture, distribute, or dispense controlled substances; or

(4) committed acts that would render registration under RCW 69.50.303 inconsistent with the public interest as determined under that section.

(b) The commission may limit revocation or suspension of a registration to the particular controlled substance or schedule of controlled substances, with respect to which grounds for revocation or suspension exist.

(c) If the commission suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.

(d) The department may seize or place under seal any controlled substance owned or possessed by a registrant whose registration has expired or who has ceased to practice or do business in the manner contemplated by the registration. The controlled substance must be held for the benefit of the registrant or the registrant's successor in interest. The department shall notify a registrant, or the registrant's successor in interest, who has any controlled substance seized or placed under seal, of the procedures to be followed to secure the return of the controlled substance and the conditions under which it will be returned. The department may not dispose of any controlled substance seized or placed under seal under this subsection until the expiration of one hundred eighty days after the controlled substance was seized or placed under seal. The costs incurred by the department in seizing, placing under seal, maintaining custody, and disposing of any controlled substance under this subsection may be recovered from the registrant, any proceeds obtained from the disposition of the controlled substance, or from both. Any balance remaining after the costs have been recovered from the proceeds of any disposition must be delivered to the registrant or the registrant's successor in interest.

(e) The department shall promptly notify the drug enforcement administration of all orders restricting, suspending, or revoking registration and all forfeitures of controlled substances.

[2013 c 19 § 100; 1993 c 187 § 18; 1989 1st ex.s. c 9 § 434; 1986 c 124 § 8; 1971 ex.s. c 308 § 69.50.304.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.305

Procedure for denial, suspension, or revocation of registration.

(a) Any registration, or exemption from registration, issued pursuant to the provisions of this chapter shall not be denied, suspended, or revoked unless the commission denies, suspends, or revokes such registration, or exemption from registration, by proceedings consistent with the administrative procedure act, chapter 34.05 RCW.

(b) The commission may suspend any registration simultaneously with the institution of proceedings under RCW 69.50.304, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the commission or dissolved by a court of competent jurisdiction.

[2013 c 19 § 101; 1971 ex.s. c 308 § 69.50.305.]

69.50.306

Records of registrants.

Persons registered, or exempted from registration under RCW 69.50.302(d), to manufacture, distribute, dispense, or administer controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the commission issues.

[2013 c 19 § 102; 1971 ex.s. c 308 § 69.50.306.]

69.50.308

Prescriptions.

(a) A controlled substance may be dispensed only as provided in this section. Prescriptions electronically communicated must also meet the requirements under RCW 69.50.312.

(b) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule II may not be dispensed without the written or electronically communicated prescription of a practitioner.

(1) Schedule II narcotic substances may be dispensed by a pharmacy pursuant to a facsimile prescription under the following circumstances:

(i) The facsimile prescription is transmitted by a practitioner to the pharmacy; and

(ii) The facsimile prescription is for a patient in a long-term care facility or a hospice program certified or paid by medicare under Title XVIII of the federal social security act. "Long-term care facility" means nursing homes licensed under chapter 18.51 RCW, assisted living facilities licensed under chapter 18.20 RCW, and adult family homes licensed under chapter 70.128 RCW; or

(iii) The facsimile prescription is for a patient of a hospice program licensed by the state; and

(iv) The practitioner or the practitioner's agent notes on the facsimile prescription that the patient is a long-term care or hospice patient.

(2) Injectable Schedule II narcotic substances that are to be compounded for patient use may be dispensed by a pharmacy pursuant to a facsimile prescription if the facsimile prescription is transmitted by a practitioner to the pharmacy.

(3) Under (1) and (2) of this subsection the facsimile prescription shall serve as the original prescription and shall be maintained as other Schedule II narcotic substances prescriptions.

(c) In emergency situations, as defined by rule of the commission, a substance included in Schedule II may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of RCW 69.50.306.

(d) A prescription for a substance included in Schedule II may not be refilled. A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(e) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing.

(f) The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless renewed by the practitioner.

(g) A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.

(h) A substance included in Schedule V must be distributed or dispensed only for a medical purpose.

(i) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner's profession. Medical treatment includes dispensing or administering a narcotic drug for pain, including intractable pain.

(j) No administrative sanction, or civil or criminal liability, authorized or created by this chapter may be imposed on a pharmacist for action taken in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.

(k) An individual practitioner may not dispense a substance included in Schedule II, III, or IV for that individual practitioner's personal use.

[2013 c 276 § 3; 2013 c 19 § 103; 2012 c 10 § 46; 2001 c 248 § 1; 1993 c 187 § 19; 1971 ex.s. c 308 § 69.50.308.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 103 and by 2013 c 276 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—2012 c 10: See note following RCW 18.20.010.

69.50.309
Containers.

A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed by a practitioner, and the owner of any animal for which such controlled substance has been prescribed, sold, or dispensed may lawfully possess it only in the container in which it was delivered to him or her by the person selling or dispensing the same.

[2012 c 117 § 367; 1971 ex.s. c 308 § 69.50.309.]

69.50.310
Sodium pentobarbital—Registration of humane societies and animal control agencies for use in animal control.

On and after September 21, 1977, a humane society and animal control agency may apply to the department for registration pursuant to the applicable provisions of this chapter for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any agency so registered shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering this drug.

The department may issue a limited registration to carry out the provisions of this section. The commission shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The commission may suspend or revoke registration upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge as herein provided. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.

[2013 c 19 § 104; 1989 1st ex.s. c 9 § 435; 1977 ex.s. c 197 § 1.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.311

Triplicate prescription form program—Compliance by health care practitioners.

Any licensed health care practitioner with prescription or dispensing authority shall, as a condition of licensure and as directed by the practitioner's disciplinary board, consent to the requirement, if imposed, of complying with a triplicate prescription form program as may be established by rule by the department of health.

[1989 1st ex.s. c 9 § 436; 1984 c 153 § 20.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.312

Electronic communication of prescription information—Commission may adopt rules.

(1) Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V[,] may be electronically communicated to a pharmacy of the patient's choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with the following:

(a) Electronically communicated prescription information must comply with all applicable statutes and rules regarding the form, content, recordkeeping, and processing of a prescription for a legend drug;

(b) The system used for transmitting electronically communicated prescription information must be approved by the commission and in accordance with federal rules for electronically communicated prescriptions for controlled substance[s] included in Schedules II through V, as set forth in Title 21 C.F.R. Parts 1300, 1304, 1306, and 1311. This subsection does not apply to currently used facsimile equipment transmitting an exact visual image of the prescription. The commission shall maintain and provide, upon request, a list of systems used for electronically communicating prescription information currently approved by the commission;

(c) An explicit opportunity for practitioners must be made to indicate their preference on whether a therapeutically equivalent generic drug may be substituted;

(d) Prescription drug orders are confidential health information, and may be released only to the patient or the patient's authorized representative, the prescriber or other authorized practitioner then caring for the patient, or other persons specifically authorized by law to receive such information;

(e) To maintain confidentiality of prescription records, the electronic system shall have adequate security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of these records. The pharmacist in charge shall establish or verify the existence of policies and procedures which ensure the integrity and confidentiality of prescription information transmitted to the pharmacy by electronic means. All managers, employees, and agents of the pharmacy are required to read, sign, and comply with the established policies and procedures; and

(f) The pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the prescription drug order received by way of electronic transmission, consistent with federal and state laws and rules and guidelines of the commission.

(2) The commission may adopt rules implementing this section.

[2013 c 276 § 4; 2013 c 19 § 105; 1998 c 222 § 4.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 105 and by 2013 c 276 § 4, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

69.50.315

Medical assistance—Drug-related overdose—Prosecution for possession.

(1) A person acting in good faith who seeks medical assistance for someone experiencing a drug-related overdose shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the person seeking medical assistance.

(2) A person who experiences a drug-related overdose and is in need of medical assistance shall not be charged or prosecuted for possession of a controlled substance pursuant to RCW 69.50.4013, or penalized under RCW 69.50.4014, if the evidence for the charge of possession of a controlled substance was obtained as a result of the overdose and the need for medical assistance.

(3) The protection in this section from prosecution for possession crimes under RCW 69.50.4013 shall not be grounds for suppression of evidence in other criminal charges.

[2015 c 205 § 4; 2010 c 9 § 2.]

NOTES:

Intent—2015 c 205: See note following RCW 69.41.095.

Intent—2010 c 9: "The legislature intends to save lives by increasing timely medical attention to drug overdose victims through the establishment of limited immunity from prosecution for people who seek medical assistance in a drug overdose situation. Drug overdose is the leading cause of unintentional injury death in Washington state, ahead of motor vehicle-related deaths. Washington state is one of sixteen states in which drug overdoses cause more deaths than traffic accidents. Drug overdose mortality rates have increased significantly since the 1990s, according to the centers for disease control and prevention, and illegal and prescription drug overdoses killed more than thirty-eight thousand people nationwide in 2006, the last year for which firm data is available. The Washington state department of health reports that in 1999 unintentional drug poisoning was responsible for four hundred three deaths in this state; in 2007, the number had increased to seven hundred sixty-one, compared with six hundred ten motor vehicle-related deaths that same year. Many drug overdose fatalities occur because peers delay or forego calling 911 for fear of arrest or police involvement, which researchers continually identify as the most significant barrier to the ideal first response of calling emergency services." [2010 c 9 § 1.]

69.50.320

Registration of department of fish and wildlife for use in chemical capture programs—Rules.

The department of fish and wildlife may apply to the department of health for registration pursuant to the applicable provisions of this chapter to purchase, possess, and administer controlled substances for use in chemical capture programs. The department of fish and wildlife must not permit a person to administer controlled substances unless the person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The department of health may issue a limited registration to carry out the provisions of this section. The commission may adopt rules to ensure strict compliance with the provisions of this section. The commission, in consultation with the department of fish and wildlife, must by rule add or remove additional controlled substances for use in chemical capture programs. The commission shall suspend or revoke registration upon determination that the person administering controlled substances has not demonstrated adequate knowledge as required by this section. This authority is granted in addition to any other power to suspend or revoke registration as provided by law.
[2013 c 19 § 106; 2003 c 175 § 2.]

NOTES:

Findings—2003 c 175: "The legislature finds that the department of fish and wildlife is responsible for the proper management of the state's diverse wildlife resources. Wildlife management often requires the department of fish and wildlife to immobilize individual animals in order for the animals to be moved, treated, examined, or for other legitimate purposes. The legislature finds that it is often necessary for the department to use certain controlled substances to accomplish these purposes. Therefore, the legislature finds that the department of fish and wildlife, in coordination with the *board of pharmacy, must be enabled to use approved controlled substances in order to accomplish its legitimate wildlife management goals." [2003 c 175 § 1.]

***Reviser's note:** Chapter 19, Laws of 2013 changed "board of pharmacy" to "pharmacy quality assurance commission."

69.50.325

Marijuana producer's license.

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor and cannabis board and subject to annual renewal. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the state liquor and cannabis board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter and chapter 69.51A RCW and the rules adopted to implement and enforce these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the state liquor and cannabis board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.
[2015 c 70 § 5; 2014 c 192 § 2; 2013 c 3 § 4 (Initiative Measure No. 502, approved November 6, 2012).]
NOTES:

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.328
Marijuana producers, processors—No direct or indirect financial interest in licensed marijuana retailers.

Neither a licensed marijuana producer nor a licensed marijuana processor shall have a direct or indirect financial interest in a licensed marijuana retailer.
[2013 c 3 § 5 (Initiative Measure No. 502, approved November 6, 2012).]
NOTES:

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.331
Application for license.

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, or for the renewal of a license to produce, process, research, transport, or deliver marijuana, useable marijuana, marijuana concentrates, or marijuana-infused products subject to the regulations established under RCW 69.50.385, or sell marijuana, the state liquor and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The state liquor and cannabis board must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board must give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:

(i) First priority is given to applicants who:

(A) Applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;

(B) Operated or were employed by a collective garden before January 1, 2013;

(C) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(D) Have had a history of paying all applicable state taxes and fees;

(ii) Second priority must be given to applicants who:

(A) Operated or were employed by a collective garden before January 1, 2013;

(B) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(C) Have had a history of paying all applicable state taxes and fees; and

(iii) Third priority must be given to all other applicants who do not have the experience and qualifications identified in (a)(i) and (ii) of this subsection.

(b) The state liquor and cannabis board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor and cannabis board and a criminal history record information check. The state liquor and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the state liquor and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor and cannabis board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(c) No license of any kind may be issued to:

(i) A person under the age of twenty-one years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor and cannabis board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products thereunder must be suspended or terminated, as the case may be.

(b) The state liquor and cannabis board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the state liquor and cannabis board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor and cannabis board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor and cannabis board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the state liquor and cannabis board or a subpoena issued by the state liquor and cannabis board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the state liquor and cannabis board. Where the license has been suspended only, the state liquor and cannabis board must return the license to the licensee at the expiration or termination of the period of suspension. The state liquor and cannabis board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the state liquor and cannabis board to implement and enforce this chapter. All conditions and restrictions imposed by the state liquor and cannabis board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of twenty-one years.

(7)(a) Before the state liquor and cannabis board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, has the right to file with the state liquor and cannabis board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor and cannabis board may extend the time period for submitting written objections.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor and cannabis board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor and cannabis board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the

applicant, state liquor and cannabis board representatives must present and defend the state liquor and cannabis board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor and cannabis board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (d) of this subsection, the state liquor and cannabis board may not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(b) A city, county, or town may permit the licensing of premises within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within one thousand feet but not less than one hundred feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The state liquor and cannabis board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within one thousand feet but not less than one hundred feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to marijuana producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a marijuana research facility.

(9) Subject to *section 1601 of this act, a city, town, or county may adopt an ordinance prohibiting a marijuana producer or marijuana processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the state liquor and cannabis board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

[2015 2nd sp.s. c 4 § 301; 2015 c 70 § 6; 2013 c 3 § 6 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

***Reviser's note:** Section 1601 of this act is a reference to a section in an earlier version of Second Engrossed Second Substitute House Bill No. 2136.

Chapter 69.50 RCW

UNIFORM CONTROLLED SUBSTANCES ACT

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.334

Denial of application—Opportunity for hearing.

(1) The action, order, or decision of the state liquor and cannabis board as to any denial of an application for the reissuance of a license to produce, process, or sell marijuana, or as to any revocation, suspension, or modification of any license to produce, process, or sell marijuana, or as to the administrative review of a notice of unpaid trust fund taxes under RCW 69.50.565, must be an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW.

(2) An opportunity for a hearing may be provided to an applicant for the reissuance of a license prior to the disposition of the application, and if no opportunity for a prior hearing is provided then an opportunity for a hearing to reconsider the application must be provided the applicant.

(3) An opportunity for a hearing must be provided to a licensee prior to a revocation or modification of any license and, except as provided in subsection (6) of this section, prior to the suspension of any license.

(4) An opportunity for a hearing must be provided to any person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(5) No hearing may be required under this section until demanded by the applicant, licensee, or person issued a notice of unpaid trust fund taxes under RCW 69.50.565.

(6) The state liquor and cannabis board may summarily suspend a license for a period of up to one hundred eighty days without a prior hearing if it finds that public health, safety, or welfare imperatively require emergency action, and it incorporates a finding to that effect in its order. Proceedings for revocation or other action must be promptly instituted and determined. An administrative law judge may extend the summary suspension period for up to one calendar year from the first day of the initial summary suspension in the event the proceedings for revocation or other action cannot be completed during the initial one hundred eighty-day period due to actions by the licensee. The state liquor and cannabis board's enforcement division shall complete a preliminary staff investigation of the violation before requesting an emergency suspension by the state liquor and cannabis board.

[2015 2nd sp.s. c 4 § 201; 2013 c 3 § 7 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—2015 2nd sp.s. c 4: "(1)(a) The legislature finds the implementation of Initiative Measure No. 502 has established a clearly disadvantaged regulated legal market with respect to prices and the ability to compete with the unregulated medical dispensary market and the illicit market. The legislature further finds that it is crucial that the state continues to ensure a safe, highly regulated system in Washington that protects valuable state revenues while continuing efforts towards disbanding the unregulated marijuana markets. The legislature further finds that ongoing evaluation on the impact of meaningful marijuana tax reform for the purpose of stabilizing revenues is crucial to the overall effort of protecting the citizens and resources of this state. The legislature further finds that a partnership with local jurisdictions in this effort is imperative to the success of the legislature's policy objective. The legislature further finds that sharing revenues to promote a successful partnership in achieving the legislature's intent should be transparent and hold local jurisdictions accountable for their use of state shared revenues. Therefore, the legislature intends to reform the current tax structure for the regulated legal marijuana system to create price parity with the large

medical and illicit markets with the specific objective of increasing the market share of the legal and highly regulated marijuana market. The legislature further intends to share marijuana tax revenues with local jurisdictions for public safety purposes and to facilitate the ongoing process of ensuring a safe regulated marijuana market in all communities across the state.

(b) The legislature further finds marijuana use for qualifying patients is a valid and necessary option health care professionals may recommend for their patients. The legislature further finds that while recognizing the difference between recreational and medical use of marijuana, it is also imperative to distinguish that the authorization for medical use of marijuana is different from a valid prescription provided by a doctor to a patient. The legislature further finds the authorization for medical use of marijuana is unlike over-the-counter medications that require no oversight by a health care professional. The legislature further finds that due to the unique characterization of authorizations for the medical use of marijuana, the policy of providing a tax preference benefit for patients using an authorization should in no way be construed as precedent for changes in the treatment of prescription medications or over-the-counter medications. Therefore, the legislature intends to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana purchased or obtained for medical use when authorized by a health care professional.

(2)(a) This subsection is the tax preference performance statement for the retail sales and use tax exemption for marijuana purchased or obtained by qualifying patients or their designated providers provided in RCW 82.08.9998(1) and 82.12.9998(1). The performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(b) The legislature categorizes the tax preference as one intended to accomplish the general purposes indicated in RCW 82.32.808(2)(e).

(c) It is the legislature's specific public policy objective to provide qualifying patients and their designated providers a retail sales and use tax exemption on marijuana purchased or obtained for medical use when authorized by a health care professional.

(d) To measure the effectiveness of the exemption provided in chapter 4, Laws of 2015 2nd sp. sess. in achieving the specific public policy objective described in (c) of this subsection, the department of revenue must provide the necessary data and assistance to the state liquor and cannabis board for the report required in RCW 69.50.535." [2015 2nd sp.s. c 4 § 101.]

Effective dates—2015 2nd sp.s. c 4: "(1) Except as provided otherwise in this section, 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, 2015.

(2) Except for section 503 of this act, part V of this act takes effect October 1, 2015.

(3) Sections 203 and 1001 of this act take effect July 1, 2016.

(4) Sections 302, 503, 901, 1204, and 1601 of this act and part XV 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 July 24, 2015." [2015 2nd sp.s. c 4 § 1605.]

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.339

Transfer of license to produce, process, or sell marijuana—Reporting of proposed sales of outstanding or issued stock of a corporation.

(1) If the *state liquor control board approves, a license to produce, process, or sell marijuana may be transferred, without charge, to the surviving spouse or domestic partner of a deceased licensee if the license was issued in the names of one or both of the parties. For the purpose of considering the qualifications of the surviving party to receive a marijuana producer's, marijuana processor's, or marijuana retailer's license, the

*state liquor control board may require a criminal history record information check. The *state liquor control board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The *state liquor control board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation.

(2) The proposed sale of more than ten percent of the outstanding or issued stock of a corporation licensed under chapter 3, Laws of 2013, or any proposed change in the officers of such a corporation, must be reported to the *state liquor control board, and *state liquor control board approval must be obtained before the changes are made. A fee of seventy-five dollars will be charged for the processing of the change of stock ownership or corporate officers.

[2013 c 3 § 8 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.342

State liquor and cannabis board may adopt rules.

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the state liquor and cannabis board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor and cannabis board is empowered to adopt rules regarding the following:

(a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

(b) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor and cannabis board, and inspection of the books and records;

(c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

(e) Screening, hiring, training, and supervising employees of licensees;

(f) Retail outlet locations and hours of operation;

(g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, cannabis health and beauty aids, and marijuana-infused products for sale in retail outlets;

(h) Forms to be used for purposes of this chapter and chapter 69.51A RCW or the rules adopted to implement and enforce these chapters, the terms and conditions to be contained in licenses issued under this chapter and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter and chapter 69.51A RCW, including a criminal history record information check. The state liquor and cannabis board may submit any criminal history record information check to the Washington state patrol and to the

identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor and cannabis board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

(i) Application, reinstatement, and renewal fees for licenses issued under this chapter and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter and chapter 69.51A RCW;

(j) The manner of giving and serving notices required by this chapter and chapter 69.51A RCW or rules adopted to implement or enforce these chapters;

(k) Times and periods when, and the manner, methods, and means by which, licensees transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter or chapter 69.51A RCW or the rules adopted to implement and enforce these chapters.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

[2015 2nd sp.s. c 4 § 1601; 2015 c 70 § 7; 2013 c 3 § 9 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.345

State liquor and cannabis board—Rules—Procedures and criteria.

The state liquor and cannabis board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for marijuana producers must request the applicant to state whether the applicant intends to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients.

(b) The state liquor and cannabis board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those marijuana producers who intend to grow plants for marijuana retailers holding medical marijuana endorsements if the marijuana producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products to be sold to qualifying patients. If current marijuana producers do not use all the increased production space, the state liquor and cannabis board may reopen the license period for new marijuana producer license applicants but

only to those marijuana producers who agree to grow plants for marijuana retailers holding medical marijuana endorsements. Priority in licensing must be given to marijuana producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new marijuana producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

(a) Population distribution;

(b) Security and safety issues;

(c) The provision of adequate access to licensed sources of marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in RCW 69.51A.230;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the state liquor and cannabis board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and their labeling requirements, to include but not be limited to:

(a) The business or trade name and Washington state unified business identifier number of the licensees that processed and sold the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(e) Language required by RCW 69.04.480;

(8) In consultation with the department of agriculture and the department, establishing classes of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the state liquor and cannabis board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising; and

(d) Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor and cannabis board, and prescribing methods of producing, processing, and packaging marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the state liquor and cannabis board. [2015 c 70 § 8; 2013 c 3 § 10 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.348

Representative samples of marijuana, useable marijuana, or marijuana-infused products.

(1) On a schedule determined by the *state liquor control board, every licensed marijuana producer and processor must submit representative samples of marijuana, useable marijuana, or marijuana-infused products produced or processed by the licensee to an independent, third-party testing laboratory meeting the accreditation requirements established by the *state liquor control board, for inspection and testing to certify compliance with standards adopted by the *state liquor control board. Any sample remaining after testing shall be destroyed by the laboratory or returned to the licensee.

(2) Licensees must submit the results of this inspection and testing to the *state liquor control board on a form developed by the *state liquor control board.

(3) If a representative sample inspected and tested under this section does not meet the applicable standards adopted by the *state liquor control board, the entire lot from which the sample was taken must be destroyed.
[2013 c 3 § 11 (Initiative Measure No. 502, approved November 6, 2012).]
NOTES:
***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.
Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.351
Interest—Members and employees of state liquor control board.

Except as provided by chapter 42.52 RCW, no member of the *state liquor control board and no employee of the *state liquor control board shall have any interest, directly or indirectly, in the producing, processing, or sale of marijuana, useable marijuana, or marijuana-infused products, or derive any profit or remuneration from the sale of marijuana, useable marijuana, or marijuana-infused products other than the salary or wages payable to him or her in respect of his or her office or position, and shall receive no gratuity from any person in connection with the business.
[2013 c 3 § 12 (Initiative Measure No. 502, approved November 6, 2012).]
NOTES:
***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.
Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.354
Retail outlet licenses.

There may be licensed, in no greater number in each of the counties of the state than as the state liquor and cannabis board shall deem advisable, retail outlets established for the purpose of making marijuana concentrates, useable marijuana, and marijuana-infused products available for sale to adults aged twenty-one and over. Retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law.
[2015 c 70 § 9; 2014 c 192 § 3; 2013 c 3 § 13 (Initiative Measure No. 502, approved November 6, 2012).]
NOTES:
Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.
Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.357

Retail outlets—Rules. (*Effective until July 1, 2016.*)

(1) Retail outlets shall sell no products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers shall not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet.

(3) Licensed marijuana retailers shall not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name.

(4) Licensed marijuana retailers shall not display useable marijuana or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

(5) No licensed marijuana retailer or employee of a retail outlet shall open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor control board shall fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana fund created under RCW 69.50.530.

[2014 c 192 § 4; 2013 c 3 § 14 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.357

Retail outlets—Rules. (*Effective July 1, 2016.*)

(1) Retail outlets may not sell products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers may not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Licensed marijuana retailers may not display any signage outside of the licensed premises, other than two signs identifying the retail outlet by the licensee's business or trade name. Each sign must be no larger than one thousand six hundred square inches, be permanently affixed to a building or other structure, and be posted not less than one thousand feet from any elementary school, secondary school, or playground.

(5) No licensed marijuana retailer or employee of a retail outlet may open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

(6) The state liquor and cannabis board must fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana account created under RCW 69.50.530.

[2015 2nd sp.s. c 4 § 203; 2015 c 70 § 12; 2014 c 192 § 4; 2013 c 3 § 14 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Effective date—2015 c 70 §§ 12, 19, 20, 23-26, 31, 35, 40, and 49: "Sections 12, 19, 20, 23 through 26, 31, 35, 40, and 49 of this act take effect July 1, 2016." [2015 c 70 § 50.]

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.360

Marijuana retailers, employees of retail outlets—Certain acts not criminal or civil offenses.

The following acts, when performed by a validly licensed marijuana retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the state liquor and cannabis board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana concentrates, useable marijuana, or marijuana-infused products that have been properly packaged and labeled from a marijuana processor validly licensed under this chapter;

(2) Possession of quantities of marijuana concentrates, useable marijuana, or marijuana-infused products that do not exceed the maximum amounts established by the state liquor and cannabis board under RCW 69.50.345(5);

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of marijuana concentrates, useable marijuana, or marijuana-infused product to any person twenty-one years of age or older:

(a) One ounce of useable marijuana;

(b) Sixteen ounces of marijuana-infused product in solid form;

(c) Seventy-two ounces of marijuana-infused product in liquid form; or

(d) Seven grams of marijuana concentrate; and

(4) Purchase and receipt of marijuana concentrates, useable marijuana, or marijuana-infused products that have been properly packaged and labeled from a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

[2015 c 207 § 6; 2015 c 70 § 13; 2014 c 192 § 5; 2013 c 3 § 15 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Reviser's note: This section was amended by 2015 c 70 § 13 and by 2015 c 207 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.363

Marijuana processors, employees—Certain acts not criminal or civil offenses.

The following acts, when performed by a validly licensed marijuana processor or employee of a validly licensed marijuana processor in compliance with rules adopted by the *state liquor control board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana that has been properly packaged and labeled from a marijuana producer validly licensed under chapter 3, Laws of 2013;

(2) Possession, processing, packaging, and labeling of quantities of marijuana, useable marijuana, and marijuana-infused products that do not exceed the maximum amounts established by the *state liquor control board under RCW 69.50.345(4);

(3) Delivery, distribution, and sale of useable marijuana or marijuana-infused products to a marijuana retailer validly licensed under chapter 3, Laws of 2013; and

(4) Delivery, distribution, and sale of useable marijuana, marijuana concentrates, or marijuana-infused products to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

[2015 c 207 § 7; 2013 c 3 § 16 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.366

Marijuana producers, employees—Certain acts not criminal or civil offenses.

The following acts, when performed by a validly licensed marijuana producer or employee of a validly licensed marijuana producer in compliance with rules adopted by the *state liquor control board to implement and enforce chapter 3, Laws of 2013, do not constitute criminal or civil offenses under Washington state law:

(1) Production or possession of quantities of marijuana that do not exceed the maximum amounts established by the *state liquor control board under RCW 69.50.345(3);

(2) Delivery, distribution, and sale of marijuana to a marijuana processor or another marijuana producer validly licensed under chapter 3, Laws of 2013; and

(3) Delivery, distribution, and sale of marijuana or useable marijuana to a federally recognized Indian tribe as permitted under an agreement between the state and the tribe entered into under RCW 43.06.490.

[2015 c 207 § 8; 2013 c 3 § 17 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

***Reviser's note:** The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.369
Marijuana producers, processors, researchers, retailers—Advertisements—Penalty.

(1) No licensed marijuana producer, processor, researcher, or retailer may place or maintain, or cause to be placed or maintained, an advertisement of marijuana, useable marijuana, marijuana concentrates, or a marijuana-infused product in any form or through any medium whatsoever:

(a) Within one thousand feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

(b) On or in a public transit vehicle or public transit shelter; or

(c) On or in a publicly owned or operated property.

(2) Merchandising within a retail outlet is not advertising for the purposes of this section.

(3) This section does not apply to a noncommercial message.

(4) The state liquor and cannabis board must fine a licensee one thousand dollars for each violation of subsection (1) of this section. Fines collected under this subsection must be deposited into the dedicated marijuana account created under RCW 69.50.530.

[2015 2nd sp.s. c 4 § 204; 2013 c 3 § 18 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.372
Marijuana research license.

(1) There shall be a marijuana research license that permits a licensee to produce, process, and possess marijuana for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of marijuana-derived drug products;

(c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and

(d) To conduct genomic or agricultural research.

(2) As part of the application process for a marijuana research license, an applicant must submit to the life sciences discovery fund authority a description of the research that is intended to be conducted. The life sciences discovery fund authority must review the project and determine that it meets the requirements of subsection (1) of this section. If the life sciences discovery fund authority determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The state liquor and cannabis board may revoke a marijuana research license for violations of this subsection.

(4) A marijuana research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects, not including those

projects conducted pursuant to a contract entered into under RCW 28B.20.502(3), must be approved by the life sciences discovery fund authority and meet the requirements of subsection (1) of this section.

(5) In establishing a marijuana research license, the state liquor and cannabis board may adopt rules on the following:

(a) Application requirements;

(b) Marijuana research license renewal requirements, including whether additional research projects may be added or considered;

(c) Conditions for license revocation;

(d) Security measures to ensure marijuana is not diverted to purposes other than research;

(e) Amount of plants, useable marijuana, marijuana concentrates, or marijuana-infused products a licensee may have on its premises;

(f) Licensee reporting requirements;

(g) Conditions under which marijuana grown by marijuana processors may be donated to marijuana research licensees; and

(h) Additional requirements deemed necessary by the state liquor and cannabis board.

(6) The production, processing, possession, delivery, donation, and sale of marijuana in accordance with this section and the rules adopted to implement and enforce it, by a validly licensed marijuana researcher, shall not be a criminal or civil offense under Washington state law. Every marijuana research license must be issued in the name of the applicant, must specify the location at which the marijuana researcher intends to operate, which must be within the state of Washington, and the holder thereof may not allow any other person to use the license.

(7) The application fee for a marijuana research license is two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana research license is one thousand dollars. Fifty percent of the application fee, the issuance fee, and the renewal fee must be deposited to the life sciences discovery fund under RCW 43.350.070, or, if that fund ceases to exist, to the general fund.

[2015 2nd sp.s. c 4 § 1501; 2015 c 71 § 1.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.375

Marijuana retailers—Medical marijuana endorsement.

(1) A medical marijuana endorsement to a marijuana retail license is hereby established to permit a marijuana retailer to sell marijuana for medical use to qualifying patients and designated providers. This endorsement also permits such retailers to provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.

(2) An applicant may apply for a medical marijuana endorsement concurrently with an application for a marijuana retail license.

(3) To be issued an endorsement, a marijuana retailer must:

(a) Not authorize the medical use of marijuana for qualifying patients at the retail outlet or permit health care professionals to authorize the medical use of marijuana for qualifying patients at the retail outlet;

(b) Carry marijuana concentrates and marijuana-infused products identified by the department under subsection (4) of this section;

(c) Not use labels or market marijuana concentrates, useable marijuana, or marijuana-infused products in a way that make them intentionally attractive to minors;

(d) Demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana authorization database established in RCW 69.51A.230 and issue recognition cards and agree to enter

qualifying patients and designated providers into the database and issue recognition cards in compliance with department standards;

(e) Keep copies of the qualifying patient's or designated provider's recognition card, or keep equivalent records as required by rule of the state liquor and cannabis board or the department of revenue to document the validity of tax exempt sales; and

(f) Meet other requirements as adopted by rule of the department or the state liquor and cannabis board.

(4) The department, in conjunction with the state liquor and cannabis board, must adopt rules on requirements for marijuana concentrates, useable marijuana, and marijuana-infused products that may be sold, or provided at no charge, to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement. These rules must include:

(a) THC concentration, CBD concentration, or low THC, high CBD ratios appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients or designated providers;

(b) Labeling requirements including that the labels attached to marijuana concentrates, useable marijuana, or marijuana-infused products contain THC concentration, CBD concentration, and THC to CBD ratios;

(c) Other product requirements, including any additional mold, fungus, or pesticide testing requirements, or limitations to the types of solvents that may be used in marijuana processing that the department deems necessary to address the medical needs of qualifying patients;

(d) Safe handling requirements for marijuana concentrates, useable marijuana, or marijuana-infused products; and

(e) Training requirements for employees.

(5) A marijuana retailer holding an endorsement to sell marijuana to qualifying patients or designated providers must train its employees on:

(a) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization database;

(b) Recognition of valid recognition cards; and

(c) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, useable marijuana, and marijuana-infused products, available for sale when assisting qualifying patients and designated providers at the retail outlet.

[2015 c 70 § 10.]

NOTES:

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.378

Marijuana retailer holding medical marijuana endorsement—THC concentration in products.

A marijuana retailer or a marijuana retailer holding a medical marijuana endorsement may sell products with a THC concentration of 0.3 percent or less. Marijuana retailers holding a medical marijuana endorsement may also provide these products at no charge to qualifying patients or designated providers.

[2015 c 70 § 11.]

NOTES:

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.380

Marijuana producers, processors, retailers prohibited from making certain sales of marijuana, marijuana products.

(1) Marijuana producers, processors, and retailers are prohibited from making sales of any marijuana or marijuana product, if the sale of the marijuana or marijuana product is conditioned upon the buyer's purchase of any service or nonmarijuana product. This subsection applies whether the buyer purchases such service or nonmarijuana product at the time of sale of the marijuana or marijuana product, or in a separate transaction.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Marijuana product" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products," as those terms are defined in RCW 69.50.101.

(b) "Nonmarijuana product" includes paraphernalia, promotional items, lighters, bags, boxes, containers, and such other items as may be identified by the state liquor and cannabis board.

(c) "Selling price" has the same meaning as in RCW 69.50.535.

(d) "Service" includes memberships and any other services identified by the state liquor and cannabis board.

[2015 2nd sp.s. c 4 § 211.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.382

Common carriers—Transportation or delivery of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products—Employees prohibited from carrying or using firearm during such services—Exceptions—Use of state ferry routes.

(1) A licensed marijuana producer, marijuana processor, marijuana researcher, or marijuana retailer, or their employees, in accordance with the requirements of this chapter and the administrative rules adopted thereunder, may use the services of a common carrier subject to regulation under chapters 81.28 and 81.29 RCW and licensed in compliance with the regulations established under RCW 69.50.385, to physically transport or deliver marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products between licensed marijuana businesses located within the state.

(2) An employee of a common carrier engaged in marijuana-related transportation or delivery services authorized under subsection (1) of this section is prohibited from carrying or using a firearm during the course of providing such services, unless:

(a) Pursuant to RCW 69.50.385, the state liquor and cannabis board explicitly authorizes the carrying or use of firearms by such employee while engaged in the transportation or delivery services;

(b) The employee has an armed private security guard license issued pursuant to RCW 18.170.040; and

(c) The employee is in full compliance with the regulations established by the state liquor and cannabis board under RCW 69.50.385.

(3) A common carrier licensed under RCW 69.50.385 may, for the purpose of transporting and delivering marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products, utilize Washington state ferry routes for such transportation and delivery.

(4) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized under, and in accordance with, this section and RCW 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

[2015 2nd sp.s. c 4 § 501.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.385

Common carriers—Licensing—State liquor and cannabis board to adopt rules.

(1) The state liquor and cannabis board must adopt rules providing for an annual licensing procedure of a common carrier who seeks to transport or deliver marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products within the state.

(2) The rules for licensing must:

(a) Establish criteria for considering the approval or denial of a common carrier's original application or renewal application;

(b) Provide minimum qualifications for any employee authorized to drive or operate the transportation or delivery vehicle, including a minimum age of at least twenty-one years;

(c) Address the safety of the employees transporting or delivering the products, including issues relating to the carrying of firearms by such employees;

(d) Address the security of the products being transported, including a system of electronically tracking all products at both the point of pickup and the point of delivery; and

(e) Set reasonable fees for the application and licensing process.

(3) The state liquor and cannabis board may adopt rules establishing the maximum amounts of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products that may be physically transported or delivered at one time by a common carrier as provided under RCW 69.50.382.

[2015 2nd sp.s. c 4 § 502.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.390

Licensed retailers prohibited from operating vending machines, drive-through purchase facilities for the sale of marijuana products.

(1) A retailer licensed under this chapter is prohibited from operating a vending machine, as defined in RCW 82.08.080(3) for the sale of marijuana products at retail or a drive-through purchase facility where marijuana products are sold at retail and dispensed through a window or door to a purchaser who is either in or on a motor vehicle or otherwise located outside of the licensed premises at the time of sale.

(2) The state liquor and cannabis board may not issue, transfer, or renew a marijuana retail license for any licensee in violation of the provisions of subsection (1) of this section.
[2015 2nd sp.s. c 4 § 1301.]
NOTES:
Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.401

Prohibited acts: A—Penalties.

(1) Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance.

(2) Any person who violates this section with respect to:

(a) A controlled substance classified in Schedule I or II which is a narcotic drug or flunitrazepam, including its salts, isomers, and salts of isomers, classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine;

(b) Amphetamine, including its salts, isomers, and salts of isomers, or methamphetamine, including its salts, isomers, and salts of isomers, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, or (i) fined not more than twenty-five thousand dollars if the crime involved less than two kilograms of the drug, or both such imprisonment and fine; or (ii) if the crime involved two or more kilograms of the drug, then fined not more than one hundred thousand dollars for the first two kilograms and not more than fifty dollars for each gram in excess of two kilograms, or both such imprisonment and fine. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost;

(c) Any other controlled substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A substance classified in Schedule IV, except flunitrazepam, including its salts, isomers, and salts of isomers, is guilty of a class C felony punishable according to chapter 9A.20 RCW; or

(e) A substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

(3) The production, manufacture, processing, packaging, delivery, distribution, sale, or possession of marijuana in compliance with the terms set forth in RCW 69.50.360, 69.50.363, or 69.50.366 shall not constitute a violation of this section, this chapter, or any other provision of Washington state law.

(4) The fines in this section apply to adult offenders only.
[2015 c 265 § 34; 2013 c 3 § 19 (Initiative Measure No. 502, approved November 6, 2012); 2005 c 218 § 1; 2003 c 53 § 331. Prior: 1998 c 290 § 1; 1998 c 82 § 2; 1997 c 71 § 2; 1996 c 205 § 2; 1989 c 271 § 104; 1987 c 458 § 4; 1979 c 67 § 1; 1973 2nd ex.s. c 2 § 1; 1971 ex.s. c 308 § 69.50.401.]
NOTES:
Finding—Intent—2015 c 265: See note following RCW 13.50.010.
Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.
Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Chapter 69.50 RCW

UNIFORM CONTROLLED SUBSTANCES ACT

Application—1998 c 290: "This act applies to crimes committed on or after July 1, 1998." [1998 c 290 § 9.]

Effective date—1998 c 290: "This act takes effect July 1, 1998." [1998 c 290 § 10.]

Severability—1998 c 290: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1998 c 290 § 11.]

Application—1989 c 271 §§ 101-111: See note following RCW 9.94A.510.

Severability—1989 c 271: See note following RCW 9.94A.510.

Severability—1987 c 458: See note following RCW 48.21.160.

Serious drug offenders, notice of release or escape: RCW 72.09.710.

69.50.4011

Counterfeit substances—Penalties.

(1) Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess a counterfeit substance.

(2) Any person who violates this section with respect to:

(a) A counterfeit substance classified in Schedule I or II which is a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(b) A counterfeit substance which is methamphetamine, is guilty of a class B felony and upon conviction may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both;

(c) Any other counterfeit substance classified in Schedule I, II, or III, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(d) A counterfeit substance classified in Schedule IV, except flunitrazepam, is guilty of a class C felony punishable according to chapter 9A.20 RCW;

(e) A counterfeit substance classified in Schedule V, is guilty of a class C felony punishable according to chapter 9A.20 RCW.

[2003 c 53 § 332.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4012

Delivery of substance in lieu of controlled substance—Penalty.

(1) It is unlawful, except as authorized in this chapter and chapter 69.41 RCW, for any person to offer, arrange, or negotiate for the sale, gift, delivery, dispensing, distribution, or administration of a controlled substance to any person and then sell, give, deliver, dispense, distribute, or administer to that person any other liquid, substance, or material in lieu of such controlled substance.

(2) Any person who violates this section is guilty of a class C felony punishable according to chapter 9A.20 RCW.

[2003 c 53 § 333.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4013

Possession of controlled substance—Penalty—Possession of useable marijuana, marijuana concentrates, or marijuana-infused products.

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW 69.50.385(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW 69.50.382 and 69.50.385, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(5) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

[2015 2nd sp.s. c 4 § 503; 2015 c 70 § 14; 2013 c 3 § 20 (Initiative Measure No. 502, approved November 6, 2012); 2003 c 53 § 334.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4014

Possession of forty grams or less of marijuana—Penalty.

Except as provided in RCW 69.50.401(2)(c) or as otherwise authorized by this chapter, any person found guilty of possession of forty grams or less of marijuana is guilty of a misdemeanor.

[2015 2nd sp.s. c 4 § 505; 2003 c 53 § 335.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Chapter 69.50 RCW

UNIFORM CONTROLLED SUBSTANCES ACT

69.50.4015

Involving a person under eighteen in unlawful controlled substance transaction—Penalty.

(1) It is unlawful to compensate, threaten, solicit, or in any other manner involve a person under the age of eighteen years in a transaction unlawfully to manufacture, sell, or deliver a controlled substance.

(2) A violation of this section is a class C felony punishable according to chapter 9A.20 RCW.

[2003 c 53 § 336.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.4016

Provisions not applicable to offenses under RCW 69.50.410.

RCW 69.50.401 through 69.50.4015 shall not apply to offenses defined and punishable under the provisions of RCW 69.50.410.

[2003 c 53 § 337.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.402

Prohibited acts: B—Penalties.

(1) It is unlawful for any person:

(a) Who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(b) Who is a registrant, to manufacture a controlled substance not authorized by his or her registration, or to distribute or dispense a controlled substance not authorized by his or her registration to another registrant or other authorized person;

(c) Who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) Any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the commission pursuant to chapter 34.05 RCW; or

(ii) Any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the commission pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy or for the treatment of hyperkinesis, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the treatment of multiple sclerosis, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the commission before the investigation has been begun: PROVIDED, That the commission, in consultation with the medical quality assurance commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED,

FURTHER, That investigations by the commission of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done in consultation with the medical quality assurance commission;

(d) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(e) To refuse an entry into any premises for any inspection authorized by this chapter; or

(f) Knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(2) Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

[2013 c 19 § 107; 2010 c 177 § 7; 2003 c 53 § 338; 1994 sp.s. c 9 § 740; 1980 c 138 § 6; 1979 ex.s. c 119 § 1; 1971 ex.s. c 308 § 69.50.402.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

69.50.403

Prohibited acts: C—Penalties.

(1) It is unlawful for any person knowingly or intentionally:

(a) To distribute as a registrant a controlled substance classified in Schedules I or II, except pursuant to an order form as required by *RCW 69.50.307;

(b) To use in the course of the manufacture, distribution, or dispensing of a controlled substance, or to use for the purpose of acquiring or obtaining a controlled substance, a registration number which is fictitious, revoked, suspended, or issued to another person;

(c) To obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance, (i) by fraud, deceit, misrepresentation, or subterfuge; or (ii) by forgery or alteration of a prescription or any written order; or (iii) by the concealment of material fact; or (iv) by the use of a false name or the giving of a false address;

(d) To falsely assume the title of, or represent herself or himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance;

(e) To make or utter any false or forged prescription or false or forged written order;

(f) To affix any false or forged label to a package or receptacle containing controlled substances;

(g) To furnish false or fraudulent material information in, or omit any material information from, any application, report, or other document required to be kept or filed under this chapter, or any record required to be kept by this chapter;

(h) To possess a false or fraudulent prescription with intent to obtain a controlled substance; or

(i) To attempt to illegally obtain controlled substances by providing more than one name to a practitioner when obtaining a prescription for a controlled substance. If a person's name is legally changed during the time period that he or she is receiving health care from a practitioner, the person shall inform all providers of care so that the medical and pharmacy records for the person may be filed under a single name identifier.

(2) Information communicated to a practitioner in an effort unlawfully to procure a controlled substance or unlawfully to procure the administration of such substance, shall not be deemed a privileged communication.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, or fined not more than two thousand dollars, or both.
[2003 c 53 § 339; 1996 c 255 § 1; 1993 c 187 § 21; 1971 ex.s. c 308 § 69.50.403.]
NOTES:

***Reviser's note:** RCW 69.50.307 was repealed by 2001 c 248 § 2.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.404
Penalties under other laws.

Any penalty imposed for violation of this chapter is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by law.
[1971 ex.s. c 308 § 69.50.404.]

69.50.405
Bar to prosecution.

If a violation of this chapter is a violation of a federal law or the law of another state, a conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.
[1971 ex.s. c 308 § 69.50.405.]

69.50.406
Distribution to persons under age eighteen.

(1) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing a controlled substance listed in Schedules I or II which is a narcotic drug or methamphetamine, including its salts, isomers, and salts of isomers, or flunitrazepam, including its salts, isomers, and salts of isomers, listed in Schedule IV, to a person under eighteen years of age is guilty of a class A felony punishable by the fine authorized by RCW 69.50.401(2) (a) or (b), by a term of imprisonment of up to twice that authorized by RCW 69.50.401(2) (a) or (b), or by both.

(2) Any person eighteen years of age or over who violates RCW 69.50.401 by distributing any other controlled substance listed in Schedules I, II, III, IV, and V to a person under eighteen years of age who is at least three years his or her junior is guilty of a class B felony punishable by the fine authorized by RCW 69.50.401(2) (c), (d), or (e), by a term of imprisonment up to twice that authorized by RCW 69.50.401(2) (c), (d), or (e), or both.
[2005 c 218 § 2; 2003 c 53 § 340; 1998 c 290 § 2; 1996 c 205 § 7; 1987 c 458 § 5; 1971 ex.s. c 308 § 69.50.406.]
NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Application—Effective date—Severability—1998 c 290: See notes following RCW 69.50.401.

Severability—1987 c 458: See note following RCW 48.21.160.

69.50.407

Conspiracy.

Any person who attempts or conspires to commit any offense defined in this chapter is punishable by imprisonment or fine or both which may not exceed the maximum punishment prescribed for the offense, the commission of which was the object of the attempt or conspiracy.
[1971 ex.s. c 308 § 69.50.407.]

69.50.408

Second or subsequent offenses.

(1) Any person convicted of a second or subsequent offense under this chapter may be imprisoned for a term up to twice the term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(2) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marihuana, depressant, stimulant, or hallucinogenic drugs.

(3) This section does not apply to offenses under RCW 69.50.4013.
[2003 c 53 § 341; 1989 c 8 § 3; 1971 ex.s. c 308 § 69.50.408.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.410

Prohibited acts: D—Penalties.

(1) Except as authorized by this chapter it is a class C felony for any person to sell for profit any controlled substance or counterfeit substance classified in Schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana.

For the purposes of this section only, the following words and phrases shall have the following meanings:

(a) "To sell" means the passing of title and possession of a controlled substance from the seller to the buyer for a price whether or not the price is paid immediately or at a future date.

(b) "For profit" means the obtaining of anything of value in exchange for a controlled substance.

(c) "Price" means anything of value.

(2)(a) Any person convicted of a violation of subsection (1) of this section shall receive a sentence of not more than five years in a correctional facility of the department of social and health services for the first offense.

(b) Any person convicted on a second or subsequent cause, the sale having transpired after prosecution and conviction on the first cause, of subsection (1) of this section shall receive a mandatory sentence of five years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for the second or subsequent violation of subsection (1) of this section.

(3)(a) Any person convicted of a violation of subsection (1) of this section by selling heroin shall receive a mandatory sentence of two years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for such violation.

(b) Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin shall receive a mandatory sentence of ten

years in a correctional facility of the department of social and health services and no judge of any court shall suspend or defer the sentence imposed for this second or subsequent violation: PROVIDED, That the indeterminate sentence review board under RCW 9.95.040 shall not reduce the minimum term imposed for a violation under this subsection.

(4) Whether or not a mandatory minimum term has expired, an offender serving a sentence under this section may be granted an extraordinary medical placement when authorized under *RCW 9.94A.728(4).

(5) In addition to the sentences provided in subsection (2) of this section, any person convicted of a violation of subsection (1) of this section shall be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained by such person as a result of sales of controlled substances in violation of the laws of this or other states, or the United States, up to the amount of five hundred thousand dollars on each count.

(6) Any person, addicted to the use of controlled substances, who voluntarily applies to the department of social and health services for the purpose of participating in a rehabilitation program approved by the department for addicts of controlled substances shall be immune from prosecution for subsection (1) offenses unless a filing of an information or indictment against such person for a violation of subsection (1) of this section is made prior to his or her voluntary participation in the program of the department of social and health services. All applications for immunity under this section shall be sent to the department of social and health services in Olympia. It shall be the duty of the department to stamp each application received pursuant to this section with the date and time of receipt.

(7) This section shall not apply to offenses defined and punishable under the provisions of RCW 69.50.401 through 69.50.4015.

[2003 c 53 § 342; 1999 c 324 § 6; 1975-'76 2nd ex.s. c 103 § 1; 1973 2nd ex.s. c 2 § 2.]

NOTES:

***Reviser's note:** RCW 9.94A.728 was amended by 2009 c 455 § 2, changing subsection (4) to subsection (3). RCW 9.94A.728 was subsequently amended by 2015 c 156 § 1, changing subsection (3) to subsection (1)(c).

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.412

Prohibited acts: E—Penalties (as amended by 2012 c 117).

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his or her junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the

advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases.

[2012 c 117 § 368; 2002 c 213 § 1; 1981 c 48 § 2.]

69.50.412

Prohibited acts: E—Penalties (as amended by 2013 c 3).

(1) It is unlawful for any person to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(2) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance other than marijuana. Any person who violates this subsection is guilty of a misdemeanor.

(3) Any person eighteen years of age or over who violates subsection (2) of this section by delivering drug paraphernalia to a person under eighteen years of age who is at least three years his junior is guilty of a gross misdemeanor.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia. Any person who violates this subsection is guilty of a misdemeanor.

(5) It is lawful for any person over the age of eighteen to possess sterile hypodermic syringes and needles for the purpose of reducing blood-borne diseases.

[2013 c 3 § 22 (Initiative Measure No. 502, approved November 6, 2012); 2002 c 213 § 1; 1981 c 48 § 2.]

NOTES:

Reviser's note: This section did not amend the most current version of the RCW. It was amended by 2013 c 3 § 22 (Initiative Measure No. 502) without cognizance of its amendment by 2012 c 117 § 368.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Severability—1981 c 48: See note following RCW 69.50.102.

69.50.4121

Drug paraphernalia—Selling or giving—Penalty.

(1) Every person who sells or gives, or permits to be sold or given to any person any drug paraphernalia in any form commits a class I civil infraction under chapter 7.80 RCW. For purposes of this subsection, "drug paraphernalia" means all equipment, products, and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance other than marijuana. Drug paraphernalia includes, but is not limited to objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cocaine into the human body, such as:

(a) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(b) Water pipes;

(c) Carburetion tubes and devices;
(d) Smoking and carburetion masks;
(e) Miniature cocaine spoons and cocaine vials;
(f) Chamber pipes;
(g) Carburetor pipes;
(h) Electric pipes;
(i) Air-driven pipes; and
(j) Ice pipes or chillers.

(2) It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

(3) Nothing in subsection (1) of this section prohibits legal distribution of injection syringe equipment through public health and community based HIV prevention programs, and pharmacies.

[2013 c 3 § 23 (Initiative Measure No. 502, approved November 6, 2012); 2002 c 213 § 2; 1998 c 317 § 1.]

NOTES:

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.413

Health care practitioners—Suspension of license for violation of chapter.

The license of any licensed health care practitioner shall be suspended for any violation of this chapter. The suspension shall run concurrently with, and not less than, the term of the sentence for the violation.

[1984 c 153 § 21.]

69.50.414

Sale or transfer of controlled substance to minor—Cause of action by parent—Damages.

The parent or legal guardian of any minor to whom a controlled substance, as defined in RCW 69.50.101, is sold or transferred, shall have a cause of action against the person who sold or transferred the controlled substance for all damages to the minor or his or her parent or legal guardian caused by such sale or transfer. Damages shall include: (a) Actual damages, including the cost for treatment or rehabilitation of the minor child's drug dependency, (b) forfeiture to the parent or legal guardian of the cash value of any proceeds received from such sale or transfer of a controlled substance, and (c) reasonable attorney fees.

This section shall not apply to a practitioner, as defined in *RCW 69.50.101(t), who sells or transfers a controlled substance to a minor pursuant to a valid prescription or order.

[1986 c 124 § 10.]

NOTES:

***Reviser's note:** The reference to RCW 69.50.101(t) is erroneous. "Practitioner" is defined in (w) of that section. RCW 69.50.101 was amended by 2013 c 3 § 2, changing subsection (w) to subsection (cc). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (cc) to subsection (dd). RCW 69.50.101 was subsequently amended by 2014 c 192 § 1, changing subsection (dd) to subsection (ee). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (ee) to subsection (jj).

69.50.415

Controlled substances homicide—Penalty.

(1) A person who unlawfully delivers a controlled substance in violation of RCW 69.50.401(2) (a), (b), or (c) which controlled substance is subsequently used by the person to whom it was delivered, resulting in the death of the user, is guilty of controlled substances homicide.

(2) Controlled substances homicide is a class B felony punishable according to chapter 9A.20 RCW.
[2003 c 53 § 343; 1996 c 205 § 8; 1987 c 458 § 2.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—1987 c 458: See note following RCW 48.21.160.

69.50.416

Counterfeit substances prohibited—Penalties.

(1) It is unlawful for any person knowingly or intentionally to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who in fact manufactured, distributed, or dispensed the substance.

(2) It is unlawful for any person knowingly or intentionally to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling thereof.

(3) A person who violates this section is guilty of a class C felony and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.
[2003 c 53 § 344; 1993 c 187 § 22.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

69.50.420

Violations—Juvenile driving privileges.

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.52 RCW, the juvenile may not petition the court for reinstatement

of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.
[1989 c 271 § 120; 1988 c 148 § 5.]
NOTES:

Severability—1989 c 271: See note following RCW 9.94A.510.
Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

69.50.430
Additional fine for certain felony violations.

(1) Every adult offender convicted of a felony violation of RCW 69.50.401 through 69.50.4013, 69.50.4015, 69.50.402, 69.50.403, 69.50.406, 69.50.407, 69.50.410, or 69.50.415 must be fined one thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the adult offender to be indigent, this additional fine may not be suspended or deferred by the court.

(2) On a second or subsequent conviction for violation of any of the laws listed in subsection (1) of this section, the adult offender must be fined two thousand dollars in addition to any other fine or penalty imposed. Unless the court finds the adult offender to be indigent, this additional fine may not be suspended or deferred by the court.

(3) In addition to any other civil or criminal penalty, every person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling to a purchaser any product that contains any amount of any synthetic cannabinoid, as identified in RCW 69.50.204, must be fined not less than ten thousand dollars and not more than five hundred thousand dollars. If, however, the person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling any product that contains any amount of any synthetic cannabinoid, as identified in RCW 69.50.204, to a purchaser under the age of eighteen, the minimum penalty is twenty-five thousand dollars if the person is at least two years older than the minor. Unless the court finds the person to be indigent, this additional fine may not be suspended or deferred by the court.
[2015 2nd sp.s. c 4 § 1204; 2015 c 265 § 36; 2003 c 53 § 345; 1989 c 271 § 106.]
NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.
Finding—Intent—2015 c 265: See note following RCW 13.50.010.
Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.
Application—1989 c 271 §§ 101-111: See note following RCW 9.94A.510.
Severability—1989 c 271: See note following RCW 9.94A.510.

69.50.435
Violations committed in or on certain public places or facilities—Additional penalty—Defenses—Construction—Definitions.

(1) Any person who violates RCW 69.50.401 by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under RCW 69.50.401 or who violates

RCW 69.50.410 by selling for profit any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana to a person:

(a) In a school;

(b) On a school bus;

(c) Within one thousand feet of a school bus route stop designated by the school district;

(d) Within one thousand feet of the perimeter of the school grounds;

(e) In a public park;

(f) In a public housing project designated by a local governing authority as a drug-free zone;

(g) On a public transit vehicle;

(h) In a public transit stop shelter;

(i) At a civic center designated as a drug-free zone by the local governing authority; or

(j) Within one thousand feet of the perimeter of a facility designated under (i) of this subsection, if the local governing authority specifically designates the one thousand foot perimeter may be punished by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment. The provisions of this section shall not operate to more than double the fine or imprisonment otherwise authorized by this chapter for an offense.

(2) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop, in a public park, in a public housing project designated by a local governing authority as a drug-free zone, on a public transit vehicle, in a public transit stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter.

(3) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, the public park, the public housing project designated by a local governing authority as a drug-free zone, or the public transit vehicle, or at the school bus route stop, the public transit vehicle stop shelter, at a civic center designated as a drug-free zone by the local governing authority, or within one thousand feet of the perimeter of a facility designated under subsection (1)(i) of this section, if the local governing authority specifically designates the one thousand foot perimeter at the time of the offense or that school was not in session.

(4) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401 for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(5) In a prosecution under this section, a map produced or reproduced by any municipality, school district, county, transit authority engineer, or public housing authority for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school, school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or a civic center designated as a drug-free zone by a local governing authority, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, county, or transit authority has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school,

school bus route stop, public park, public housing project designated by a local governing authority as a drug-free zone, public transit vehicle stop shelter, or civic center designated as a drug-free zone by a local governing authority. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, county, transit authority, or public housing authority if the map or diagram is otherwise admissible under court rule.

(6) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(a) "School" has the meaning under RCW 28A.150.010 or 28A.150.020. The term "school" also includes a private school approved under RCW 28A.195.010;

(b) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system;

(c) "School bus route stop" means a school bus stop as designated by a school district;

(d) "Public park" means land, including any facilities or improvements on the land, that is operated as a park by the state or a local government;

(e) "Public transit vehicle" means any motor vehicle, streetcar, train, trolley vehicle, or any other device, vessel, or vehicle which is owned or operated by a transit authority and which is used for the purpose of carrying passengers on a regular schedule;

(f) "Transit authority" means a city, county, or state transportation system, transportation authority, public transportation benefit area, public transit authority, or metropolitan municipal corporation within the state that operates public transit vehicles;

(g) "Stop shelter" means a passenger shelter designated by a transit authority;

(h) "Civic center" means a publicly owned or publicly operated place or facility used for recreational, educational, or cultural activities;

(i) "Public housing project" means the same as "housing project" as defined in RCW 35.82.020.

(7) The fines imposed by this section apply to adult offenders only.

[2015 c 265 § 37; 2003 c 53 § 346. Prior: 1997 c 30 § 2; 1997 c 23 § 1; 1996 c 14 § 2; 1991 c 32 § 4; prior: 1990 c 244 § 1; 1990 c 33 § 588; 1989 c 271 § 112.]

NOTES:

Finding—Intent—2015 c 265: See note following RCW 13.50.010.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Findings—Intent—1997 c 30: "The legislature finds that a large number of illegal drug transactions occur in or near public housing projects. The legislature also finds that this activity places the families and children residing in these housing projects at risk for drug-related crimes and increases the general level of fear among the residents of the housing project and the areas surrounding these projects. The intent of the legislature is to allow local governments to designate public housing projects as drug-free zones." [1997 c 30 § 1.]

Findings—Intent—1996 c 14: "The legislature finds that a large number of illegal drug transactions occur in or near publicly owned places used for recreational, educational, and cultural purposes. The legislature also finds that this activity places the people using these facilities at risk for drug-related crimes,

discourages the use of recreational, educational, and cultural facilities, blights the economic development around these facilities, and increases the general level of fear among the residents of the areas surrounding these facilities. The intent of the legislature is to allow local governments to designate a perimeter of one thousand feet around publicly owned places used primarily for recreation, education, and cultural activities as drug-free zones." [1996 c 14 § 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 271: See note following RCW 9.94A.510.

69.50.438

Cathinone or methcathinone—Additional fine.

In addition to any other civil or criminal penalty, every person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling to a purchaser any product that contains any amount of any cathinone or methcathinone, as identified in RCW 69.50.204, must be fined not less than ten thousand dollars and not more than five hundred thousand dollars. If, however, the person who violates or causes another to violate RCW 69.50.401 by distributing, dispensing, manufacturing, displaying for sale, offering for sale, attempting to sell, or selling any product that contains any amount of any cathinone or methcathinone, as identified in RCW 69.50.204, to a purchaser under the age of eighteen, the minimum penalty is twenty-five thousand dollars if the person is at least two years older than the minor. Unless the court finds the person to be indigent, this additional fine may not be suspended or deferred by the court.

[2015 2nd sp.s. c 4 § 1205.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.440

Possession with intent to manufacture—Penalty.

(1) It is unlawful for any person to possess ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, including its salts, isomers, and salts of isomers.

(2) Any person who violates this section is guilty of a class B felony and may be imprisoned for not more than ten years, fined not more than twenty-five thousand dollars, or both. Three thousand dollars of the fine may not be suspended. As collected, the first three thousand dollars of the fine must be deposited with the law enforcement agency having responsibility for cleanup of laboratories, sites, or substances used in the manufacture of the methamphetamine, including its salts, isomers, and salts of isomers. The fine moneys deposited with that law enforcement agency must be used for such clean-up cost.

[2005 c 218 § 3; 2003 c 53 § 347; 2002 c 134 § 1; 2000 c 225 § 4; 1997 c 71 § 3; 1996 c 205 § 1.]

NOTES:

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Effective date—2002 c 134: "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 immediately [March 26, 2002]." [2002 c 134 § 5.]

Severability—2000 c 225: See note following RCW 69.55.010.

69.50.445
Opening package of or consuming marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates in view of general public or public place—Penalty.

(1) It is unlawful to open a package containing marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, or consume marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, in view of the general public or in a public place.

(2) For the purposes of this section, "public place" has the same meaning as defined in RCW 66.04.010, but the exclusions in RCW 66.04.011 do not apply.

(3) A person who violates this section is guilty of a class 3 civil infraction under chapter 7.80 RCW.
[2015 2nd sp.s. c 4 § 401; 2013 c 3 § 21 (Initiative Measure No. 502, approved November 6, 2012).]
NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.
Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.450
Butane or other explosive gases.

(1) Nothing in this chapter permits anyone other than a validly licensed marijuana processor to use butane or other explosive gases to extract or separate resin from marijuana or to produce or process any form of marijuana concentrates or marijuana-infused products that include marijuana concentrates not purchased from a validly licensed marijuana retailer as an ingredient. The extraction or separation of resin from marijuana, the processing of marijuana concentrates, and the processing of marijuana-infused products that include marijuana concentrates not purchased from a validly licensed marijuana retailer as an ingredient by any person other than a validly licensed marijuana processor each constitute manufacture of marijuana in violation of RCW 69.50.401. Cooking oil, butter, and other nonexplosive home cooking substances may be used to make marijuana extracts for noncommercial personal use.

(2) Except for the use of butane, the state liquor and cannabis board may not enforce this section until it has adopted the rules required by RCW 69.51A.270.
[2015 c 70 § 15.]
NOTES:

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.455
Synthetic cannabinoids—Unfair or deceptive practice under RCW 19.86.020.

(1) It is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that

contains any amount of any synthetic cannabinoid. The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business.

(2) "Synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204(c)(30) or by the pharmacy quality assurance commission under RCW 69.50.201.

[2015 2nd sp.s. c 4 § 1201.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.460

Cathinone or methcathinone—Unfair or deceptive practice under RCW 19.86.020.

It is an unfair or deceptive practice under RCW 19.86.020 for any person or entity to distribute, dispense, manufacture, display for sale, offer for sale, attempt to sell, or sell to a purchaser any product that contains any amount of any cathinone or methcathinone as identified in RCW 69.50.204(e) (3) and (5). The legislature finds that practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Violations of this section are not reasonable in relation to the development and preservation of business.

[2015 2nd sp.s. c 4 § 1202.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.465

Conducting or maintaining marijuana club—Penalty.

(1) It is unlawful for any person to conduct or maintain a marijuana club by himself or herself or by associating with others, or in any manner aid, assist, or abet in conducting or maintaining a marijuana club.

(2) It is unlawful for any person to conduct or maintain a public place where marijuana is held or stored, except as provided for a licensee under this chapter, or consumption of marijuana is permitted.

(3) Any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(4) The following definitions apply throughout this section unless the context clearly requires otherwise.

(a) "Marijuana club" means a club, association, or other business, for profit or otherwise, that conducts or maintains a premises for the primary or incidental purpose of providing a location where members or other persons may keep or consume marijuana on the premises.

(b) "Public place" means, in addition to the definition provided in RCW 66.04.010, any place to which admission is charged or for which any pecuniary gain is realized by the owner or operator of such place.

[2015 2nd sp.s. c 4 § 1401.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.500

Powers of enforcement personnel.

(a) It is hereby made the duty of the *state board of pharmacy, the department, the **state liquor control board, and their officers, agents, inspectors and representatives, and all law enforcement officers within the state, and of all prosecuting attorneys, to enforce all provisions of this chapter, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and all other states, relating to controlled substances as defined in this chapter.

(b) Employees of the department of health, who are so designated by the *board as enforcement officers are declared to be peace officers and shall be vested with police powers to enforce the drug laws of this state, including this chapter.

[2013 c 3 § 24 (Initiative Measure No. 502, approved November 6, 2012); 1989 1st ex.s. c 9 § 437; 1971 ex.s. c 308 § 69.50.500.]

NOTES:

Reviser's note: *(1) Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

**(2) The "state liquor control board" was renamed the "state liquor and cannabis board" by 2015 c 70 § 3.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.50.501
Administrative inspections.

The commission may make administrative inspections of controlled premises in accordance with the following provisions:

(1) For purposes of this section only, "controlled premises" means:

(a) places where persons registered or exempted from registration requirements under this chapter are required to keep records; and

(b) places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.

(2) When authorized by an administrative inspection warrant issued pursuant to RCW 69.50.502 an officer or employee designated by the commission, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the commission may:

(a) inspect and copy records required by this chapter to be kept;

(b) inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subsection (5) of this section, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and

(c) inventory any stock of any controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with chapter 34.05 RCW, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) if the owner, operator, or agent in charge of the controlled premises consents;

(b) in situations presenting imminent danger to health or safety;

(c) in situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;

(d) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking; or,

(e) in all other situations in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

[2013 c 19 § 108; 1971 ex.s. c 308 § 69.50.501.]

69.50.502

Warrants for administrative inspections.

Issuance and execution of administrative inspection warrants shall be as follows:

(1) A judge of a superior court, or a judge of a district court within his or her jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules hereunder, and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules hereunder, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant;

(2) A warrant shall issue only upon an affidavit of a designated officer or employee having knowledge of the facts alleged, sworn to before the judge and establishing the grounds for issuing the warrant. If the judge is satisfied that grounds for the application exist or that there is probable cause to believe they exist, he or she shall issue a warrant identifying the area, premises, building, or conveyance to be inspected, the purpose of the inspection, and, if appropriate, the type of property to be inspected, if any. The warrant shall:

(a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof;

(b) Be directed to a person authorized by RCW 69.50.500 to execute it;

(c) Command the person to whom it is directed to inspect the area, premises, building, or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified;

(d) Identify the item or types of property to be seized, if any;

(e) Direct that it be served during normal business hours and designate the judge to whom it shall be returned;

(3) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant;

(4) The judge who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the court in which the inspection was made.

[2012 c 117 § 369; 1971 ex.s. c 308 § 69.50.502.]

69.50.503
Injunctions.

(a) The superior courts of this state have jurisdiction to restrain or enjoin violations of this chapter.

(b) The defendant may demand trial by jury for an alleged violation of an injunction or restraining order under this section.

[1971 ex.s. c 308 § 69.50.503.]

69.50.504
Cooperative arrangements.

The commission shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances.

[2013 c 19 § 109; 1971 ex.s. c 308 § 69.50.504.]

69.50.505
Seizure and forfeiture.

(1) The following are subject to seizure and forfeiture and no property right exists in them:

(a) All controlled substances which have been manufactured, distributed, dispensed, acquired, or possessed in violation of this chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals, as defined in RCW 64.44.010, used or intended to be used in the manufacture of controlled substances;

(b) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

(c) All property which is used, or intended for use, as a container for property described in (a) or (b) of this subsection;

(d) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, in any manner to facilitate the sale, delivery, or receipt of property described in (a) or (b) of this subsection, except that:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter or chapter 69.41 or 69.52 RCW;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without the owner's knowledge or consent;

(iii) No conveyance is subject to forfeiture under this section if used in the receipt of only an amount of marijuana for which possession constitutes a misdemeanor under RCW 69.50.4014;

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(v) When the owner of a conveyance has been arrested under this chapter or chapter 69.41 or 69.52 RCW the conveyance in which the person is arrested may not be subject to forfeiture unless it is seized or process is issued for its seizure within ten days of the owner's arrest;

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter or chapter 69.41 or 69.52 RCW;

(f) All drug paraphernalia*21 other than paraphernalia possessed, sold, or used solely to facilitate marijuana-related activities that are not violations of this chapter;

(g) All moneys, negotiable instruments, securities, or other tangible or intangible property of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible or intangible personal property, proceeds, or assets acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this chapter or chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property encumbered by a bona fide security interest is subject to the interest of the secured party if, at the time the security interest was created, the secured party neither had knowledge of nor consented to the act or omission. No personal property may be forfeited under this subsection (1)(g), to the extent of the interest of an owner, by reason of any act or omission which that owner establishes was committed or omitted without the owner's knowledge or consent; and

(h) All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements which are being used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importing, or exporting of any controlled substance, or which have been acquired in whole or in part with proceeds traceable to an exchange or series of exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW, if such activity is not less than a class C felony and a substantial nexus exists between the commercial production or sale of the controlled substance and the real property. However:

(i) No property may be forfeited pursuant to this subsection (1)(h), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's knowledge or consent;

(ii) The bona fide gift of a controlled substance, legend drug, or imitation controlled substance shall not result in the forfeiture of real property;

(iii) The possession of marijuana shall not result in the forfeiture of real property unless the marijuana is possessed for commercial purposes that are unlawful under Washington state law, the amount possessed is five or more plants or one pound or more of marijuana, and a substantial nexus exists between the possession of marijuana and the real property. In such a case, the intent of the offender shall be determined by the preponderance of the evidence, including the offender's prior criminal history, the amount of marijuana possessed by the offender, the sophistication of the activity or equipment used by the offender, whether the offender was licensed to produce, process, or sell marijuana, or was an employee of a licensed producer, processor, or retailer, and other evidence which demonstrates the offender's intent to engage in unlawful commercial activity;

(iv) The unlawful sale of marijuana or a legend drug shall not result in the forfeiture of real property unless the sale was forty grams or more in the case of marijuana or one hundred dollars or more in the case of a legend drug, and a substantial nexus exists between the unlawful sale and the real property; and

(v) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, at the time the security interest was created, neither had knowledge of nor consented to the act or omission.

(2) Real or personal property subject to forfeiture under this chapter may be seized by any **board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure

or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) A **board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The **board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) In the event of seizure pursuant to subsection (2) of this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title, shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title. The notice of seizure in other cases may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(4) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(d), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(5) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section within forty-five days of the service of notice from the seizing agency in the case of personal property and ninety days in the case of real property, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The notice of claim may be served by any method authorized by law or court rule including, but not limited to, service by first-class mail. Service by mail shall be deemed complete upon mailing within the forty-five day period following service of the notice of seizure in the case of personal property and within the ninety-day period following service of the notice of seizure in the case of real property. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal of any matter involving personal property may only be accomplished according to the rules of civil procedure. The person seeking removal of

the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of personal property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In all cases, the burden of proof is upon the law enforcement agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture.

The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of this section.

(6) In any proceeding to forfeit property under this title, where the claimant substantially prevails, the claimant is entitled to reasonable attorneys' fees reasonably incurred by the claimant. In addition, in a court hearing between two or more claimants to the article or articles involved, the prevailing party is entitled to a judgment for costs and reasonable attorneys' fees.

(7) When property is forfeited under this chapter the **board or seizing law enforcement agency may:

(a) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public;

(c) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(d) Forward it to the drug enforcement administration for disposition.

(8)(a) When property is forfeited, the seizing agency shall keep a record indicating the identity of the prior owner, if known, a description of the property, the disposition of the property, the value of the property at the time of seizure, and the amount of proceeds realized from disposition of the property.

(b) Each seizing agency shall retain records of forfeited property for at least seven years.

(c) Each seizing agency shall file a report including a copy of the records of forfeited property with the state treasurer each calendar quarter.

(d) The quarterly report need not include a record of forfeited property that is still being held for use as evidence during the investigation or prosecution of a case or during the appeal from a conviction.

(9)(a) By January 31st of each year, each seizing agency shall remit to the state treasurer an amount equal to ten percent of the net proceeds of any property forfeited during the preceding calendar year. Money remitted shall be deposited in the state general fund.

(b) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages under subsection (15) of this section.

(c) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Forfeited property and net proceeds not required to be paid to the state treasurer shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of controlled substances related law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(11) Controlled substances listed in Schedule I, II, III, IV, and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV, and V, which are seized or come into the possession of the **board, the owners of which are unknown, are contraband and shall be summarily forfeited to the **board.

(12) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the **board.

(13) The failure, upon demand by a **board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he or she is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

(14) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

(15)(a) A landlord may assert a claim against proceeds from the sale of assets seized and forfeited under subsection (7)(b) of this section, only if:

(i) A law enforcement officer, while acting in his or her official capacity, directly caused damage to the complaining landlord's property while executing a search of a tenant's residence; and

(ii) The landlord has applied any funds remaining in the tenant's deposit, to which the landlord has a right under chapter 59.18 RCW, to cover the damage directly caused by a law enforcement officer prior to asserting a claim under the provisions of this section;

(A) Only if the funds applied under (a)(ii) of this subsection are insufficient to satisfy the damage directly caused by a law enforcement officer, may the landlord seek compensation for the damage by filing a claim against the governmental entity under whose authority the law enforcement agency operates within thirty days after the search;

(B) Only if the governmental entity denies or fails to respond to the landlord's claim within sixty days of the date of filing, may the landlord collect damages under this subsection by filing within thirty days of denial or the expiration of the sixty-day period, whichever occurs first, a claim with the seizing law enforcement agency. The seizing law enforcement agency must notify the landlord of the status of the claim by the end of the thirty-day period. Nothing in this section requires the claim to be paid by the end of the sixty-day or thirty-day period.

(b) For any claim filed under (a)(ii) of this subsection, the law enforcement agency shall pay the claim unless the agency provides substantial proof that the landlord either:

(i) Knew or consented to actions of the tenant in violation of this chapter or chapter 69.41 or 69.52 RCW; or

(ii) Failed to respond to a notification of the illegal activity, provided by a law enforcement agency under RCW 59.18.075, within seven days of receipt of notification of the illegal activity.

(16) The landlord's claim for damages under subsection (15) of this section may not include a claim for loss of business and is limited to:

(a) Damage to tangible property and clean-up costs;

(b) The lesser of the cost of repair or fair market value of the damage directly caused by a law enforcement officer;

(c) The proceeds from the sale of the specific tenant's property seized and forfeited under subsection (7)(b) of this section; and

(d) The proceeds available after the seizing law enforcement agency satisfies any bona fide security interest in the tenant's property and costs related to sale of the tenant's property as provided by subsection (9)(b) of this section.

(17) Subsections (15) and (16) of this section do not limit any other rights a landlord may have against a tenant to collect for damages. However, if a law enforcement agency satisfies a landlord's claim under subsection (15) of this section, the rights the landlord has against the tenant for damages directly caused by a law enforcement officer under the terms of the landlord and tenant's contract are subrogated to the law enforcement agency.

[2013 c 3 § 25 (Initiative Measure No. 502, approved November 6, 2012). Prior: 2009 c 479 § 46; 2009 c 364 § 1; 2008 c 6 § 631; 2003 c 53 § 348; 2001 c 168 § 1; 1993 c 487 § 1; 1992 c 211 § 1; prior: (1992 c 210 § 5 repealed by 1992 c 211 § 2); 1990 c 248 § 2; 1990 c 213 § 12; 1989 c 271 § 212; 1988 c 282 § 2; 1986 c 124 § 9; 1984 c 258 § 333; 1983 c 2 § 15; prior: 1982 c 189 § 6; 1982 c 171 § 1; prior: 1981 c 67 § 32; 1981 c 48 § 3; 1977 ex.s. c 77 § 1; 1971 ex.s. c 308 § 69.50.505.]

NOTES:

Reviser's note: *(1) The number 21 was inadvertently added in the document filed with the secretary of state's office.

**(2) Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

Effective date—2009 c 479: See note following RCW 2.56.030.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Severability—2001 c 168: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2001 c 168 § 5.]

Effective date—1990 c 213 §§ 2 and 12: See note following RCW 64.44.010.

Severability—1990 c 213: See RCW 64.44.901.

Findings—1989 c 271: "The legislature finds that: Drug offenses and crimes resulting from illegal drug use are destructive to society; the nature of drug trafficking results in many property crimes and crimes of violence; state and local governmental agencies incur immense expenses in the investigation, prosecution, adjudication, incarceration, and treatment of drug-related offenders and the compensation of their victims; drug-related offenses are difficult to eradicate because of the profits derived from the criminal activities, which can be invested in legitimate assets and later used for further criminal activities; and the forfeiture of real assets where a substantial nexus exists between the commercial production or sale of the substances and the real property will provide a significant deterrent to crime by removing the profit incentive of drug trafficking, and will provide a revenue source that will partially defray the large costs incurred by government as a result of these crimes. The legislature recognizes that seizure of real property is a very powerful tool and should not be applied in cases in which a manifest injustice would occur as a result of forfeiture of an innocent spouse's community property interest." [1989 c 271 § 211.]

Severability—1989 c 271: See note following RCW 9.94A.510.

Severability—1988 c 282: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 282 § 3.]

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.34.130.

Severability—1983 c 2: See note following RCW 18.71.030.

Effective date—1982 c 189: See note following RCW 34.12.020.

Severability—Effective date—1982 c 171: See RCW 69.52.900 and 69.52.901.

Severability—1981 c 48: See note following RCW 69.50.102.

69.50.506
Burden of proof; liabilities.

(a) It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.

(b) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, he or she is presumed not to be the holder of the registration or form. The burden of proof is upon him or her to rebut the presumption.

(c) No liability is imposed by this chapter upon any authorized state, county, or municipal officer, engaged in the lawful performance of his or her duties.

[2012 c 117 § 370; 1971 ex.s. c 308 § 69.50.506.]

69.50.507
Judicial review.

All final determinations, findings, and conclusions of the commission under this chapter are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the superior court wherein he or she resides or in the superior court of Thurston county, such review to be in conformity with the administrative procedure act, chapter 34.05 RCW.

[2013 c 19 § 110; 2012 c 117 § 371; 1971 ex.s. c 308 § 69.50.507.]

69.50.508
Education and research.

(a) The commission may carry out educational programs designed to prevent and deter misuse and abuse of controlled substances. In connection with these programs it may:

(1) promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations;

(2) assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances;

(3) consult with interested groups and organizations to aid them in solving administrative and organizational problems;

(4) evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances;

(5) disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them; and

(6) assist in the education and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.

(b) The commission may encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:

(1) establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse;

(2) make studies and undertake programs of research to:

(i) develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter;

(ii) determine patterns of misuse and abuse of controlled substances and the social effects thereof; and,

(iii) improve methods for preventing, predicting, understanding and dealing with the misuse and abuse of controlled substances; and,

(3) enter into contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.

(c) The commission may enter into contracts for educational and research activities without performance bonds.

(d) The commission may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.

(e) The commission may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

[2013 c 19 § 111; 1971 ex.s. c 308 § 69.50.508.]

69.50.509

Search and seizure of controlled substances.

If, upon the sworn complaint of any person, it shall be made to appear to any judge of the superior court, district court, or municipal court that there is probable cause to believe that any controlled substance is being used, manufactured, sold, bartered, exchanged, administered, dispensed, delivered, distributed, produced, possessed, given away, furnished or otherwise disposed of or kept in violation of the provisions of this chapter, such judge shall, with or without the approval of the prosecuting attorney, issue a warrant directed to any law enforcement officer of the state, commanding him or her to search the premises designated and described in such complaint and warrant, and to seize all controlled substances there found, together with the vessels in which they are contained, and all implements, furniture and fixtures used or kept for the illegal manufacture, sale, barter, exchange, administering, dispensing, delivering, distributing, producing, possessing, giving away, furnishing or otherwise disposing of such controlled substances, and to safely keep the same, and to make a return of said warrant within three days, showing all acts and things done thereunder, with a particular statement of all articles seized and the name of the person or persons in whose possession the same were found, if any, and if no person be found in the possession of said articles, the returns shall so state. The provisions of RCW 10.31.030 as now or hereafter amended shall apply to actions taken pursuant to this chapter.

[1987 c 202 § 228; 1971 ex.s. c 308 § 69.50.509.]

NOTES:

Intent—1987 c 202: See note following RCW 2.04.190.

69.50.510
Search and seizure at rental premises—Notification of landlord.

Whenever a controlled substance which is manufactured, distributed, dispensed, or acquired in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known by the law enforcement agency, of the seizure and the location of the seizure.
[1988 c 150 § 9.]
NOTES:
Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.50.511
Cleanup of hazardous substances at illegal drug manufacturing facility—Rules.

Law enforcement agencies who during the official investigation or enforcement of any illegal drug manufacturing facility come in contact with or are aware of any substances suspected of being hazardous as defined in RCW 70.105D.020, shall notify the department of ecology for the purpose of securing a contractor to identify, clean up, store, and dispose of suspected hazardous substances, except for those random and representative samples obtained for evidentiary purposes. Whenever possible, a destruct order covering hazardous substances which may be described in general terms shall be obtained concurrently with a search warrant. Materials that have been photographed, fingerprinted, and subsampled by police shall be destroyed as soon as practical. The department of ecology shall make every effort to recover costs from the parties responsible for the suspected hazardous substance. All recoveries shall be deposited in the account or fund from which contractor payments are made.

The department of ecology may adopt rules to carry out its responsibilities under this section. The department of ecology shall consult with law enforcement agencies prior to adopting any rule or policy relating to this section.
[2007 c 104 § 17; 1990 c 213 § 13; 1989 c 271 § 228.]
NOTES:
Application—Construction—Severability—2007 c 104: See RCW 64.70.015 and 64.70.900.
Severability—1990 c 213: See RCW 64.44.901.
Severability—1989 c 271: See note following RCW 9.94A.510.

69.50.515
Pharmacies—Marijuana—Notification and disposal.

(1) Upon finding one ounce or less of marijuana inadvertently left at a retail store holding a pharmacy license, the store manager or employee must promptly notify the local law enforcement agency. After notification to the local law enforcement agency, the store manager or employee must properly dispose of the marijuana.

(2) For the purposes of this section, "properly dispose" means ensuring that the product is destroyed or rendered incapable of use by another person.

[2013 c 133 § 1.]

69.50.525

Diversion prevention and control—Report.

(a) As used in this section, "diversion" means the transfer of any controlled substance from a licit to an illicit channel of distribution or use.

(b) The department shall regularly prepare and make available to other state regulatory, licensing, and law enforcement agencies a report on the patterns and trends of actual distribution, diversion, and abuse of controlled substances.

(c) The department shall enter into written agreements with local, state, and federal agencies for the purpose of improving identification of sources of diversion and to improve enforcement of and compliance with this chapter and other laws and regulations pertaining to unlawful conduct involving controlled substances. An agreement must specify the roles and responsibilities of each agency that has information or authority to identify, prevent, and control drug diversion and drug abuse. The department shall convene periodic meetings to coordinate a state diversion prevention and control program. The department shall arrange for cooperation and exchange of information among agencies and with neighboring states and the federal government.

[1998 c 245 § 109; 1993 c 187 § 20.]

69.50.530

Dedicated marijuana account.

The dedicated marijuana account is created in the state treasury. All moneys received by the state liquor and cannabis board, or any employee thereof, from marijuana-related activities must be deposited in the account. Unless otherwise provided in chapter 4, Laws of 2015 2nd sp. sess., all marijuana excise taxes collected from sales of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products under RCW 69.50.535, and the license fees, penalties, and forfeitures derived under this chapter from marijuana producer, marijuana processor, marijuana researcher, and marijuana retailer licenses, must be deposited in the account. Moneys in the account may only be spent after appropriation.

[2015 2nd sp.s. c 4 § 1101; 2013 c 3 § 26 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.535

Marijuana excise tax—State liquor and cannabis board to review tax level—Reports—State and federal antitrust laws.

(1)(a) There is levied and collected a marijuana excise tax equal to thirty-seven percent of the selling price on each retail sale in this state of marijuana concentrates, useable marijuana, and marijuana-infused products. This tax is separate and in addition to general state and local sales and use taxes that apply to retail sales of tangible personal property, and is not part of the total retail price to which general state and local sales and use

taxes apply. The tax must be separately itemized from the state and local retail sales tax on the sales receipt provided to the buyer.

(b) The tax levied in this section must be reflected in the price list or quoted shelf price in the licensed marijuana retail store and in any advertising that includes prices for all useable marijuana, marijuana concentrates, or marijuana-infused products.

(2) All revenues collected from the marijuana excise tax imposed under this section must be deposited each day in the dedicated marijuana account.

(3) The tax imposed in this section must be paid by the buyer to the seller. Each seller must collect from the buyer the full amount of the tax payable on each taxable sale. The tax collected as required by this section is deemed to be held in trust by the seller until paid to the board. If any seller fails to collect the tax imposed in this section or, having collected the tax, fails to pay it as prescribed by the board, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is, nevertheless, personally liable to the state for the amount of the tax.

(4) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Retail sale" has the same meaning as in RCW 82.08.010.

(c) "Selling price" has the same meaning as in RCW 82.08.010, except that when product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value, "selling price" means the true value of the product sold.

(d) "Product" means marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products.

(e) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.

(5)(a) The board must regularly review the tax level established under this section and make recommendations, in consultation with the department of revenue, to the legislature as appropriate regarding adjustments that would further the goal of discouraging use while undercutting illegal market prices.

(b) The state liquor and cannabis board must report, in compliance with RCW 43.01.036, to the appropriate committees of the legislature every two years. The report at a minimum must include the following:

(i) The specific recommendations required under (a) of this subsection;

(ii) A comparison of gross sales and tax collections prior to and after any marijuana tax change;

(iii) The increase or decrease in the volume of legal marijuana sold prior to and after any marijuana tax change;

(iv) Increases or decreases in the number of licensed marijuana producers, processors, and retailers;

(v) The number of illegal and noncompliant marijuana outlets the board requires to be closed;

(vi) Gross marijuana sales and tax collections in Oregon; and

(vii) The total amount of reported sales and use taxes exempted for qualifying patients. The department of revenue must provide the data of exempt amounts to the board.

(c) The board is not required to report to the legislature as required in (b) of this subsection after January 1, 2025.

(6) The legislature does not intend and does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal antitrust laws including, but not limited to, agreements among retailers as to the selling price of any goods sold.

[2015 2nd sp.s. c 4 § 205; 2014 c 192 § 7; 2013 c 3 § 27 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.540

Dedicated marijuana account—Appropriations.

The legislature must annually appropriate moneys in the dedicated marijuana account created in RCW 69.50.530 as follows:

(1) For the purposes listed in this subsection (1), the legislature must appropriate to the respective agencies amounts sufficient to make the following expenditures on a quarterly basis:

(a) Beginning July 1, 2015, one hundred twenty-five thousand dollars to the department of social and health services to design and administer the Washington state healthy youth survey, analyze the collected data, and produce reports, in collaboration with the office of the superintendent of public instruction, department of health, department of commerce, family policy council, and state liquor and cannabis board. The survey must be conducted at least every two years and include questions regarding, but not necessarily limited to, academic achievement, age at time of substance use initiation, antisocial behavior of friends, attitudes toward antisocial behavior, attitudes toward substance use, laws and community norms regarding antisocial behavior, family conflict, family management, parental attitudes toward substance use, peer rewarding of antisocial behavior, perceived risk of substance use, and rebelliousness. Funds disbursed under this subsection may be used to expand administration of the healthy youth survey to student populations attending institutions of higher education in Washington;

(b) Beginning July 1, 2015, fifty thousand dollars to the department of social and health services for the purpose of contracting with the Washington state institute for public policy to conduct the cost-benefit evaluation and produce the reports described in RCW 69.50.550. This appropriation ends after production of the final report required by RCW 69.50.550;

(c) Beginning July 1, 2015, five thousand dollars to the University of Washington alcohol and drug abuse institute for the creation, maintenance, and timely updating of web-based public education materials providing medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(d) An amount not less than one million two hundred fifty thousand dollars to the state liquor and cannabis board for administration of this chapter as appropriated in the omnibus appropriations act;

(e) Twenty-three thousand seven hundred fifty dollars to the department of enterprise services provided solely for the state building code council established under RCW 19.27.070, to develop and adopt fire and building code provisions related to marijuana processing and extraction facilities. The distribution under this subsection (1)(e) is for fiscal year 2016 only;

(2) From the amounts in the dedicated marijuana account after appropriation of the amounts identified in subsection (1) of this section, the legislature must appropriate for the purposes listed in this subsection (2) as follows:

(a)(i) Up to fifteen percent to the department of social and health services division of behavioral health and recovery for the development, implementation, maintenance, and evaluation of programs and practices aimed at the prevention or reduction of maladaptive substance use, substance use disorder, substance abuse or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders, among middle school and high school-age students, whether as an explicit goal of a given program or practice or as a consistently corresponding effect of its implementation, mental health services for children and youth, and services for pregnant and parenting women; PROVIDED, That:

(A) Of the funds appropriated under (a)(i) of this subsection for new programs and new services, at least eighty-five percent must be directed to evidence-based or research-based programs and practices that produce objectively measurable results and, by September 1, 2020, are cost-beneficial; and

(B) Up to fifteen percent of the funds appropriated under (a)(i) of this subsection for new programs and new services may be directed to proven and tested practices, emerging best practices, or promising practices.

(ii) In deciding which programs and practices to fund, the secretary of the department of social and health services must consult, at least annually, with the University of Washington's social development research group and the University of Washington's alcohol and drug abuse institute.

(iii) For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of twenty-seven million seven hundred eighty-six thousand dollars, and for each subsequent fiscal year thereafter, the legislature must appropriate a minimum of twenty-five million five hundred thirty-six thousand dollars under this subsection (2)(a);

(b)(i) Up to ten percent to the department of health for the following, subject to (b)(ii) of this subsection (2):

(A) Creation, implementation, operation, and management of a marijuana education and public health program that contains the following:

(I) A marijuana use public health hotline that provides referrals to substance abuse treatment providers, utilizes evidence-based or research-based public health approaches to minimizing the harms associated with marijuana use, and does not solely advocate an abstinence-only approach;

(II) A grants program for local health departments or other local community agencies that supports development and implementation of coordinated intervention strategies for the prevention and reduction of marijuana use by youth; and

(III) Media-based education campaigns across television, internet, radio, print, and out-of-home advertising, separately targeting youth and adults, that provide medically and scientifically accurate information about the health and safety risks posed by marijuana use;

(B) The Washington poison control center; and

(C) During the 2015-2017 fiscal biennium, the funds appropriated under this subsection (2)(b) may be used for prevention activities that target youth and populations with a high incidence of tobacco use.

(ii) For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of seven million five hundred thousand dollars and for each subsequent fiscal year thereafter, the legislature must appropriate a minimum of nine million seven hundred fifty thousand dollars under this subsection (2)(b);

(c)(i) Up to six-tenths of one percent to the University of Washington and four-tenths of one percent to Washington State University for research on the short and long-term effects of marijuana use, to include but not be limited to formal and informal methods for estimating and measuring intoxication and impairment, and for the dissemination of such research.

(ii) For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of two hundred seven thousand dollars and for each subsequent fiscal year, the legislature must appropriate a minimum of one million twenty-one thousand dollars to the University of Washington. For the fiscal year beginning July 1, 2016, the legislature must appropriate a minimum of one hundred thirty-eight thousand dollars and for each subsequent fiscal year thereafter, a minimum of six hundred eighty-one thousand dollars to Washington State University under this subsection (2)(c);

(d) Fifty percent to the state basic health plan trust account to be administered by the Washington basic health plan administrator and used as provided under chapter 70.47 RCW;

(e) Five percent to the Washington state health care authority to be expended exclusively through contracts with community health centers to provide primary health and dental care services, migrant health services, and maternity health care services as provided under RCW 41.05.220;

(f)(i) Up to three-tenths of one percent to the office of the superintendent of public instruction to fund grants to building bridges programs under chapter 28A.175 RCW.

(ii) For the fiscal year beginning July 1, 2016, and each subsequent fiscal year, the legislature must appropriate a minimum of five hundred eleven thousand dollars to the office of the superintendent of public instruction under this subsection (2)(f); and

(g) At the end of each fiscal year, the treasurer must transfer any amounts in the dedicated marijuana account that are not appropriated pursuant to subsection (1) of this section and this subsection (2) into the general fund, except as provided in (g)(i) of this subsection (2).

(i) Beginning in fiscal year 2018, if marijuana excise tax collections deposited into the general fund in the prior fiscal year exceed twenty-five million dollars, then each fiscal year the legislature must appropriate an amount equal to thirty percent of all marijuana excise taxes deposited into the general fund the prior fiscal year to the treasurer for distribution to counties, cities, and towns as follows:

(A) Thirty percent must be distributed to counties, cities, and towns where licensed marijuana retailers are physically located. Each jurisdiction must receive a share of the revenue distribution under this subsection (2)(g)(i)(A) based on the proportional share of the total revenues generated in the individual jurisdiction from the taxes collected under RCW 69.50.535, from licensed marijuana retailers physically located in each jurisdiction. For purposes of this subsection (2)(g)(i)(A), one hundred percent of the proportional amount attributed to a retailer physically located in a city or town must be distributed to the city or town.

(B) Seventy percent must be distributed to counties, cities, and towns ratably on a per capita basis. Counties must receive sixty percent of the distribution, which must be disbursed based on each county's total proportional population. Funds may only be distributed to jurisdictions that do not prohibit the siting of any state licensed marijuana producer, processor, or retailer.

(ii) Distribution amounts allocated to each county, city, and town must be distributed in four installments by the last day of each fiscal quarter.

(iii) By September 15th of each year, the state liquor and cannabis board must provide the state treasurer the annual distribution amount, if any, for each county and city as determined in (g)(i) of this subsection (2).

(iv) The total share of marijuana excise tax revenues distributed to counties and cities in (g)(i) of this subsection (2) may not exceed fifteen million dollars in fiscal years 2018 and 2019 and twenty million dollars per fiscal year thereafter.

For the purposes of this section, "marijuana products" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products" as those terms are defined in RCW 69.50.101.

[2015 3rd sp.s. c 4 § 967; 2015 2nd sp.s. c 4 § 206; 2013 c 3 § 28 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Effective dates—2015 3rd sp.s. c 4: See note following RCW 28B.15.069.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.545

Departments of social and health services, health—Adoption of rules for disbursement of marijuana excise taxes.

The department of social and health services and the department of health shall, by December 1, 2013, adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable to carry into effect the provisions of RCW 69.50.540.

[2013 c 3 § 29 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.550
Cost-benefit evaluations.

(1) The Washington state institute for public policy shall conduct cost-benefit evaluations of the implementation of chapter 3, Laws of 2013. A preliminary report, and recommendations to appropriate committees of the legislature, shall be made by September 1, 2015, and the first final report with recommendations by September 1, 2017. Subsequent reports shall be due September 1, 2022, and September 1, 2032.

(2) The evaluation of the implementation of chapter 3, Laws of 2013 shall include, but not necessarily be limited to, consideration of the following factors:

(a) Public health, to include but not be limited to:

(i) Health costs associated with marijuana use;

(ii) Health costs associated with criminal prohibition of marijuana, including lack of product safety or quality control regulations and the relegation of marijuana to the same illegal market as potentially more dangerous substances; and

(iii) The impact of increased investment in the research, evaluation, education, prevention and intervention programs, practices, and campaigns identified in RCW 69.50.363 on rates of marijuana-related maladaptive substance use and diagnosis of marijuana-related substance use disorder, substance abuse, or substance dependence, as these terms are defined in the Diagnostic and Statistical Manual of Mental Disorders;

(b) Public safety, to include but not be limited to:

(i) Public safety issues relating to marijuana use; and

(ii) Public safety issues relating to criminal prohibition of marijuana;

(c) Youth and adult rates of the following:

(i) Marijuana use;

(ii) Maladaptive use of marijuana; and

(iii) Diagnosis of marijuana-related substance use disorder, substance abuse, or substance dependence, including primary, secondary, and tertiary choices of substance;

(d) Economic impacts in the private and public sectors, including but not limited to:

(i) Jobs creation;

(ii) Workplace safety;

(iii) Revenues; and

(iv) Taxes generated for state and local budgets;

(e) Criminal justice impacts, to include but not be limited to:

(i) Use of public resources like law enforcement officers and equipment, prosecuting attorneys and public defenders, judges and court staff, the Washington state patrol crime lab and identification and criminal history section, jails and prisons, and misdemeanant and felon supervision officers to enforce state criminal laws regarding marijuana; and

(ii) Short and long-term consequences of involvement in the criminal justice system for persons accused of crimes relating to marijuana, their families, and their communities; and

(f) State and local agency administrative costs and revenues.

[2013 c 3 § 30 (Initiative Measure No. 502, approved November 6, 2012).]

NOTES:

Intent—2013 c 3 (Initiative Measure No. 502): See note following RCW 69.50.101.

69.50.555

Taxes, fees, assessments, charges—Commercial activities covered by marijuana agreement between state and tribe.

The taxes, fees, assessments, and other charges imposed by this chapter do not apply to commercial activities related to the production, processing, sale, and possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products covered by an agreement entered into under RCW 43.06.490.

[2015 c 207 § 3.]

NOTES:

Intent—Finding—2015 c 207: See note following RCW 43.06.490.

69.50.560

Controlled purchase programs—Persons under age twenty-one—Violation—Criminal penalty—Exceptions.

(1) The state liquor and cannabis board may conduct controlled purchase programs to determine whether:

(a) A marijuana retailer is unlawfully selling marijuana to persons under the age of twenty-one;

(b) A marijuana retailer holding a medical marijuana endorsement is selling to persons under the age of eighteen or selling to persons between the ages of eighteen and twenty-one who do not hold valid recognition cards;

(c) Until July 1, 2016, collective gardens under *RCW 69.51A.085 are providing marijuana to persons under the age of twenty-one; or

(d) A cooperative organized under RCW 69.51A.250 is permitting a person under the age of twenty-one to participate.

(2) Every person under the age of twenty-one years who purchases or attempts to purchase marijuana is guilty of a violation of this section. This section does not apply to:

(a) Persons between the ages of eighteen and twenty-one who hold valid recognition cards and purchase marijuana at a marijuana retail outlet holding a medical marijuana endorsement;

(b) Persons between the ages of eighteen and twenty-one years who are participating in a controlled purchase program authorized by the state liquor and cannabis board under rules adopted by the board. Violations occurring under a private, controlled purchase program authorized by the state liquor and cannabis board may not be used for criminal or administrative prosecution.

(3) A marijuana retailer who conducts an in-house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in-house controlled purchase program. The written description must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding the sale of marijuana during an in-house controlled purchase program.

(4) An in-house controlled purchase program authorized under this section shall be for the purposes of employee training and employer self-compliance checks. A marijuana retailer may not terminate an employee solely for a first-time failure to comply with company policies regarding the sale of marijuana during an in-house controlled purchase program authorized under this section.

(5) Every person between the ages of eighteen and twenty-one who is convicted of a violation of this section is guilty of a misdemeanor punishable as provided by RCW 9A.20.021.

[2015 c 70 § 33.]
NOTES:

***Reviser's note:** RCW 69.51A.085 was repealed by 2015 c 70 § 49, effective July 1, 2016.

Effective date—2015 c 70 §§ 21, 22, 32, and 33: See note following RCW 69.51A.230.

Short title—Findings—Intent—References to Washington state liquor control board—Draft legislation—2015 c 70: See notes following RCW 66.08.012.

69.50.565

Unpaid trust fund taxes—Limited liability business entities—Liability of responsible individuals—Administrative hearing.

(1) Whenever the board determines that a limited liability business entity has collected trust fund taxes and has failed to remit those taxes to the board and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the board may pursue collection of the entity's unpaid trust fund taxes, including penalties on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The board may presume that an entity is insolvent if the entity refuses to disclose to the board the nature of its assets and liabilities.

(2)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully failed to pay or to cause to be paid to the board the trust fund taxes due from the limited liability business entity.

(3)(a) Except as provided in this subsection (3)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the board during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the board but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the board.

(4) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes was due to reasons beyond their control as determined by the board by rule.

(5) Any person having been issued a notice of unpaid trust fund taxes under this section is entitled to an administrative hearing under RCW 69.50.334 and any such rules the board may adopt.

(6) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(7) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

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

(b) "Chief executive" means: The president of a corporation or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(c) "Chief financial officer" means: The treasurer of a corporation or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(d) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(e) "Manager" has the same meaning as in *RCW 25.15.005.

(f) "Member" has the same meaning as in *RCW 25.15.005, except that the term only includes members of member-managed limited liability companies.

(g) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(h)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with unpaid trust fund tax liability.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (7)(h)(iii), "taxpayer" means a limited liability business entity with unpaid trust fund taxes.

(i) "Trust fund taxes" means taxes collected from buyers and deemed held in trust under RCW 69.50.535.

(j) "Willfully failed to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

[2015 2nd sp.s. c 4 § 202.]

NOTES:

***Reviser's note:** RCW 25.15.005 was repealed by 2015 c 188 § 108, effective January 1, 2016.

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.570

Bundled transactions—Retail sales—Subject to tax—Exception.

(1)(a) Except as provided in (b) of this subsection, a retail sale of a bundled transaction that includes marijuana product is subject to the tax imposed under RCW 69.50.535 on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and products that are not taxable under RCW 69.50.535, the portion of the price attributable to the nontaxable products are subject to the tax imposed by RCW 69.50.535 unless the seller can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business for other purposes including, but not limited to, nontax purposes.

(2) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Bundled transaction" means:

(i) The retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one product is a marijuana product subject to the tax under RCW 69.50.535; and

(ii) A marijuana product provided free of charge with the required purchase of another product. A marijuana product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the marijuana product provided free of charge.

(b) "Distinct and identifiable products" does not include packaging such as containers, boxes, sacks, bags, and bottles, or materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof. Examples of packaging that are incidental or immaterial include grocery sacks, shoeboxes, and dry cleaning garment bags.

(c) "Marijuana product" means "useable marijuana," "marijuana concentrates," and "marijuana-infused products" as defined in RCW 69.50.101.

(d) "Selling price" has the same meaning as in RCW 82.08.010, except that when product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value, "selling price" means the true value of the product sold.

(e) "True value" means market value based on sales at comparable locations in this state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. However, in the absence of such sales of the same or similar product, "true value" means the value of the product sold as determined by all of the seller's direct and indirect costs attributable to the product.

[2015 2nd sp.s. c 4 § 210.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.575

Cannabis health and beauty aids.

(1) Cannabis health and beauty aids are not subject to the regulations and penalties of this chapter that apply to marijuana, marijuana concentrates, or marijuana-infused products.

(2) For purposes of this section, "cannabis health and beauty aid" means a product containing parts of the cannabis plant and which:

(a) Is intended for use only as a topical application to provide therapeutic benefit or to enhance appearance;

(b) Contains a THC concentration of not more than 0.3 percent;

(c) Does not cross the blood-brain barrier; and

(d) Is not intended for ingestion by humans or animals.

[2015 2nd sp.s. c 4 § 701.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.580

Applicants for marijuana producer's, processor's, researcher's, or retailer's licenses—Signage—Public notice requirements.

(1) Applicants for a marijuana producer's, marijuana processor's, marijuana researcher's or marijuana retailer's license under this chapter must display a sign provided by the state liquor and cannabis board on the outside of the premises to be licensed notifying the public that the premises are subject to an application for such license. The sign must:

(a) Contain text with content sufficient to notify the public of the nature of the pending license application, the date of the application, the name of the applicant, and contact information for the state liquor and cannabis board;

(b) Be conspicuously displayed on, or immediately adjacent to, the premises subject to the application and in the location that is most likely to be seen by the public;

(c) Be of a size sufficient to ensure that it will be readily seen by the public; and

(d) Be posted within seven business days of the submission of the application to the state liquor and cannabis board.

(2) The state liquor and cannabis board must adopt such rules as are necessary for the implementation of this section, including rules pertaining to the size of the sign and the text thereon, the textual content of the sign, the fee for providing the sign, and any other requirements necessary to ensure that the sign provides adequate notice to the public.

(3)(a) A city, town, or county may adopt an ordinance requiring individual notice by an applicant for a marijuana producer's, marijuana processor's, marijuana researcher's, or marijuana retailer's license under this chapter, sixty days prior to issuance of the license, to any elementary or secondary school, playground, recreation center or facility, child care center, church, public park, public transit center, library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older, that is within one thousand feet of the perimeter of the grounds of the establishment seeking licensure. The notice must provide the contact information for the liquor and cannabis board where any of the owners or operators of these entities may submit comments or concerns about the proposed business location.

(b) For the purposes of this subsection, "church" means a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith.

[2015 2nd sp.s. c 4 § 801.]

NOTES:

Findings—Intent—Effective dates—2015 2nd sp.s. c 4: See notes following RCW 69.50.334.

69.50.601

Pending proceedings.

(a) Prosecution for any violation of law occurring prior to May 21, 1971 is not affected or abated by this chapter. If the offense being prosecuted is similar to one set out in Article IV of this chapter, then the penalties under Article IV apply if they are less than those under prior law.

(b) Civil seizures or forfeitures and injunctive proceedings commenced prior to May 21, 1971 are not affected by this chapter.

(c) All administrative proceedings pending under prior laws which are superseded by this chapter shall be continued and brought to a final determination in accord with the laws and rules in effect prior to May 21, 1971. Any substance controlled under prior law which is not listed within Schedules I through V, is automatically controlled without further proceedings and shall be listed in the appropriate schedule.

(d) The commission shall initially permit persons to register who own or operate any establishment engaged in the manufacture, distribution, or dispensing of any controlled substance prior to May 21, 1971 and who are registered or licensed by the state.

(e) This chapter applies to violations of law, seizures and forfeiture, injunctive proceedings, administrative proceedings and investigations which occur following May 21, 1971.

[2013 c 19 § 112; 1971 ex.s. c 308 § 69.50.601.]

69.50.602
Continuation of rules.

Any orders and rules promulgated under any law affected by this chapter and in effect on May 21, 1971 and not in conflict with it continue in effect until modified, superseded or repealed.

[1971 ex.s. c 308 § 69.50.602.]

69.50.603
Uniformity of interpretation.

This chapter shall be so applied and construed as to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it.

[1971 ex.s. c 308 § 69.50.603.]

69.50.604
Short title.

This chapter may be cited as the Uniform Controlled Substances Act.

[1971 ex.s. c 308 § 69.50.604.]

69.50.605
Severability—1971 ex.s. c 308.

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

[1971 ex.s. c 308 § 69.50.605.]

69.50.606
Repealers.

The laws specified below are repealed except with respect to rights and duties which matured, penalties which were incurred and proceedings which were begun before the effective date of this act:

(1) Section 2072, Code of 1881, section 418, chapter 249, Laws of 1909, section 4, chapter 205, Laws of 1963 and RCW 9.91.030;

(2) Section 69.33.220, chapter 27, Laws of 1959, section 7, chapter 256, Laws of 1969 ex. sess. and RCW 69.33.220;

(3) Sections 69.33.230 through 69.33.280, chapter 27, Laws of 1959 and RCW 69.33.230 through 69.33.280;

(4) Section 69.33.290, chapter 27, Laws of 1959, section 1, chapter 97, Laws of 1959 and RCW 69.33.290;

(5) Section 69.33.300, chapter 27, Laws of 1959, section 8, chapter 256, Laws of 1969 ex. sess. and RCW 69.33.300;

(6) Sections 69.33.310 through 69.33.400, chapter 27, Laws of 1959 and RCW 69.33.310 through 69.33.400;

(7) Section 69.33.410, chapter 27, Laws of 1959, section 20, chapter 38, Laws of 1963 and RCW 69.33.410;

(8) Sections 69.33.420 through 69.33.440, 69.33.900 through 69.33.950, chapter 27, Laws of 1959 and RCW 69.33.420 through 69.33.440, 69.33.900 through 69.33.950;

(9) Section 255, chapter 249, Laws of 1909 and RCW 69.40.040;

(10) Section 1, chapter 6, Laws of 1939, section 1, chapter 29, Laws of 1939, section 1, chapter 57, Laws of 1945, section 1, chapter 24, Laws of 1955, section 1, chapter 49, Laws of 1961, section 1, chapter 71, Laws of 1967, section 9, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.060;

(11) Section 1, chapter 23, Laws of 1955, section 2, chapter 49, Laws of 1961, section 2, chapter 71, Laws of 1967 and RCW 69.40.061;

(12) Section 21, chapter 38, Laws of 1963 and RCW 69.40.063;

(13) Section 2, chapter 6, Laws of 1939, section 23, chapter 38, Laws of 1963, section 10, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.070;

(14) Section 12, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.075;

(15) Section 1, chapter 205, Laws of 1963 and RCW 69.40.080;

(16) Section 2, chapter 205, Laws of 1963 and RCW 69.40.090;

(17) Section 3, chapter 205, Laws of 1963 and RCW 69.40.100;

(18) Section 11, chapter 256, Laws of 1969 ex. sess. and RCW 69.40.110;

(19) Section 1, chapter 33, Laws of 1970 ex. sess. and RCW 69.40.120; and

(20) Section 1, chapter 80, Laws of 1970 ex. sess.

[1971 ex.s. c 308 § 69.50.606.]

69.50.607

Effective date—1971 ex.s. c 308.

This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

[1971 ex.s. c 308 § 69.50.607.]

69.50.608

State preemption.

Chapter 69.50 RCW

UNIFORM CONTROLLED SUBSTANCES ACT

The state of Washington fully occupies and preempts the entire field of setting penalties for violations of the controlled substances act. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to controlled substances that are consistent with this chapter. Such local ordinances shall have the same penalties as provided for by state law. Local laws and ordinances that are inconsistent with the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of the city, town, county, or municipality.
[1989 c 271 § 601.]

69.50.609

Captions not law—1993 c 187.

Section captions as used in this act constitute no part of the law.
[1993 c 187 § 23.]

Chapter 69.51 RCW
CONTROLLED SUBSTANCES THERAPEUTIC RESEARCH ACT

Sections

69.51.010	Short title.
69.51.020	Legislative purpose.
69.51.030	Definitions.
69.51.040	Controlled substances therapeutic research program.
69.51.050	Patient qualification review committee.
69.51.060	Sources and distribution of marijuana.
69.51.080	Cannabis and related products considered Schedule II substances.

69.51.010
Short title.

This chapter may be cited as the Controlled Substances Therapeutic Research Act.
[1979 c 136 § 1.]

69.51.020
Legislative purpose.

The legislature finds that recent research has shown that the use of marijuana may alleviate the nausea and ill effects of cancer chemotherapy and radiology, and, additionally, may alleviate the ill effects of glaucoma. The legislature further finds that there is a need for further research and experimentation regarding the use of marijuana under strictly controlled circumstances. It is for this purpose that the Controlled Substances Therapeutic Research Act is hereby enacted.
[1979 c 136 § 2.]

69.51.030
Definitions.

As used in this chapter:

(1) "Commission" means the pharmacy quality assurance commission;

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

(3) "Marijuana" means all parts of the plant of the genus Cannabis L., whether growing or not, 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; and

(4) "Practitioner" means a physician licensed pursuant to chapter 18.71 or 18.57 RCW.
[2013 c 19 § 113; 1989 1st ex.s. c 9 § 438; 1979 c 136 § 3.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.51.040

Controlled substances therapeutic research program.

(1) There is established in the commission the controlled substances therapeutic research program. The program shall be administered by the department. The commission shall promulgate rules necessary for the proper administration of the Controlled Substances Therapeutic Research Act. In such promulgation, the commission shall take into consideration those pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse.

(2) Except as provided in RCW 69.51.050(4), the controlled substances therapeutic research program shall be limited to cancer chemotherapy and radiology patients and glaucoma patients, who are certified to the patient qualification review committee by a practitioner as being involved in a life-threatening or sense-threatening situation. No patient may be admitted to the controlled substances therapeutic research program without full disclosure by the practitioner of the experimental nature of this program and of the possible risks and side effects of the proposed treatment in accordance with the informed consent provisions of chapter 7.70 RCW.

(3) The commission shall provide by rule for a program of registration with the department of bona fide controlled substance therapeutic research projects.

[2013 c 19 § 114; 1989 1st ex.s. c 9 § 439; 1979 c 136 § 4.]

NOTES:

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

69.51.050

Patient qualification review committee.

(1) The commission shall appoint a patient qualification review committee to serve at its pleasure. The patient qualification review committee shall be comprised of:

(a) A physician licensed to practice medicine in Washington state and specializing in the practice of ophthalmology;

(b) A physician licensed to practice medicine in Washington state and specializing in the subspecialty of medical oncology;

(c) A physician licensed to practice medicine in Washington state and specializing in the practice of psychiatry; and

(d) A physician licensed to practice medicine in Washington state and specializing in the practice of radiology.

Members of the committee shall be compensated at the rate of fifty dollars per day for each day spent in the performance of their official duties, and shall receive reimbursement for their travel expenses as provided in RCW 43.03.050 and 43.03.060.

(2) The patient qualification review committee shall review all applicants for the controlled substance therapeutic research program and their licensed practitioners and certify their participation in the program.

(3) The patient qualification review committee and the commission shall insure that the privacy of individuals who participate in the controlled substance therapeutic research program is protected by withholding from all persons not connected with the conduct of the research the names and other identifying characteristics of such individuals. Persons authorized to engage in research under the controlled substance therapeutic research program may not be compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was granted, except to the extent necessary to permit the commission to determine whether the research is being conducted in accordance with the authorization.

(4) The patient qualification review committee may include other disease groups for participation in the controlled substances therapeutic research program after pertinent medical data have been presented by a practitioner to both the committee and the commission, and after approval for such participation has been granted pursuant to pertinent rules promulgated by the United States drug enforcement agency, the food and drug administration, and the national institute on drug abuse.
[2013 c 19 § 115; 1979 c 136 § 5.]

69.51.060
Sources and distribution of marijuana.

(1) The commission shall obtain marijuana through whatever means it deems most appropriate and consistent with regulations promulgated by the United States food and drug administration, the drug enforcement agency, and the national institute on drug abuse, and pursuant to the provisions of this chapter.

(2) The commission may use marijuana which has been confiscated by local or state law enforcement agencies and has been determined to be free from contamination.

(3) The commission shall distribute the analyzed marijuana to approved practitioners and/or institutions in accordance with rules promulgated by the commission.
[2013 c 19 § 116; 1979 c 136 § 6.]

69.51.080
Cannabis and related products considered Schedule II substances.

(1) The enumeration of tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in RCW 69.50.204 as a Schedule I controlled substance does not apply to the use of cannabis, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols by certified patients pursuant to the provisions of this chapter.

(2) Cannabis, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols shall be considered Schedule II substances as enumerated in RCW 69.50.206 only for the purposes enumerated in this chapter.
[1979 c 136 § 8.]

Chapter 69.52 RCW

IMITATION CONTROLLED SUBSTANCES

Sections

69.52.010 Legislative findings.
69.52.020 Definitions.
69.52.030 Violations—Exceptions.
69.52.040 Seizure of contraband.
69.52.045 Seizure at rental premises—Notification of landlord.
69.52.050 Injunctive action by attorney general authorized.
69.52.060 Injunctive or other legal action by manufacturer of controlled substances authorized.
69.52.070 Violations—Juvenile driving privileges.
69.52.900 Severability—1982 c 171.
69.52.901 Effective date—1982 c 171.

NOTES:

Drug nuisances—Injunctions: Chapter 7.43 RCW.

69.52.010

Legislative findings.

The legislature finds that imitation controlled substances are being manufactured to imitate the appearance of the dosage units of controlled substances for sale to school-age youths and others to facilitate the fraudulent sale of controlled substances. The legislature further finds that manufacturers are endeavoring to profit from the manufacture of these imitation controlled substances while avoiding liability by accurately labeling the containers or packaging which contain these imitation controlled substances. The close similarity of appearance between dosage units of imitation controlled substances and controlled substances is indicative of a deliberate and wilful attempt to profit by deception without regard to the tragic human consequences. The use of imitation controlled substances is responsible for a growing number of injuries and deaths, and the legislature hereby declares that this chapter is necessary for the protection and preservation of the public health and safety.

[1982 c 171 § 2.]

69.52.020

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Controlled substance" means a substance as that term is defined in chapter 69.50 RCW.

(2) "Distribute" means the actual or constructive transfer (or attempted transfer) or delivery or dispensing to another of an imitation controlled substance.

(3) "Imitation controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(a) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(b) Statements made to the recipient that the substance may be resold for inordinate profit; or

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance.

[1982 c 171 § 3.]

69.52.030

Violations—Exceptions.

(1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW 69.50.301 or 69.50.303 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in *RCW 69.50.101(t), in the course of professional practice or research.

(5) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

[1983 1st ex.s. c 4 § 5; 1982 c 171 § 4.]

NOTES:

***Reviser's note:** The reference to RCW 69.50.101(t) is erroneous. "Practitioner" is defined in (w) of that section. RCW 69.50.101 was amended by 2013 c 3 § 2, changing subsection (w) to subsection (cc). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (cc) to subsection (dd). RCW 69.50.101 was subsequently amended by 2014 c 192 § 1, changing subsection (dd) to subsection (ee). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (ee) to subsection (jj).

Severability—1983 1st ex.s. c 4: See note following RCW 9A.48.070.

69.52.040

Seizure of contraband.

Imitation controlled substances shall be subject to seizure, forfeiture, and disposition in the same manner as are controlled substances under RCW 69.50.505.

[1982 c 171 § 5.]

69.52.045

Seizure at rental premises—Notification of landlord.

Whenever an imitation controlled substance which is manufactured, distributed, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to

discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure.
[1988 c 150 § 10.]
NOTES:
Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.52.050
Injunctive action by attorney general authorized.

The attorney general is authorized to apply for injunctive action against a manufacturer or distributor of imitation controlled substances in this state.
[1982 c 171 § 6.]

69.52.060
Injunctive or other legal action by manufacturer of controlled substances authorized.

Any manufacturer of controlled substances licensed or registered in a state requiring such licensure or registration, may bring injunctive or other action against a manufacturer or distributor of imitation controlled substances in this state.
[1982 c 171 § 7.]

69.52.070
Violations—Juvenile driving privileges.

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.
[1989 c 271 § 121; 1988 c 148 § 6.]

NOTES:

Severability—1989 c 271: See note following RCW 9.94A.510.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

69.52.900

Severability—1982 c 171.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1982 c 171 § 8.]

69.52.901

Effective date—1982 c 171.

This act shall take effect on July 1, 1982.
[1982 c 171 § 10.]

Chapter 69.52 RCW

IMITATION CONTROLLED SUBSTANCES

Sections

69.52.010 Legislative findings.
69.52.020 Definitions.
69.52.030 Violations—Exceptions.
69.52.040 Seizure of contraband.
69.52.045 Seizure at rental premises—Notification of landlord.
69.52.050 Injunctive action by attorney general authorized.
69.52.060 Injunctive or other legal action by manufacturer of controlled substances authorized.
69.52.070 Violations—Juvenile driving privileges.
69.52.900 Severability—1982 c 171.
69.52.901 Effective date—1982 c 171.

NOTES:

Drug nuisances—Injunctions: Chapter 7.43 RCW.

69.52.010

Legislative findings.

The legislature finds that imitation controlled substances are being manufactured to imitate the appearance of the dosage units of controlled substances for sale to school-age youths and others to facilitate the fraudulent sale of controlled substances. The legislature further finds that manufacturers are endeavoring to profit from the manufacture of these imitation controlled substances while avoiding liability by accurately labeling the containers or packaging which contain these imitation controlled substances. The close similarity of appearance between dosage units of imitation controlled substances and controlled substances is indicative of a deliberate and wilful attempt to profit by deception without regard to the tragic human consequences. The use of imitation controlled substances is responsible for a growing number of injuries and deaths, and the legislature hereby declares that this chapter is necessary for the protection and preservation of the public health and safety.

[1982 c 171 § 2.]

69.52.020

Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Controlled substance" means a substance as that term is defined in chapter 69.50 RCW.

(2) "Distribute" means the actual or constructive transfer (or attempted transfer) or delivery or dispensing to another of an imitation controlled substance.

(3) "Imitation controlled substance" means a substance that is not a controlled substance, but which by appearance or representation would lead a reasonable person to believe that the substance is a controlled substance. Appearance includes, but is not limited to, color, shape, size, and markings of the dosage unit. Representation includes, but is not limited to, representations or factors of the following nature:

(a) Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect;

(b) Statements made to the recipient that the substance may be resold for inordinate profit; or

(c) Whether the substance is packaged in a manner normally used for illicit controlled substances.

(4) "Manufacture" means the production, preparation, compounding, processing, encapsulating, packaging or repackaging, or labeling or relabeling of an imitation controlled substance.

[1982 c 171 § 3.]

69.52.030

Violations—Exceptions.

(1) It is unlawful for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance. Any person who violates this subsection shall, upon conviction, be guilty of a class C felony.

(2) Any person eighteen years of age or over who violates subsection (1) of this section by distributing an imitation controlled substance to a person under eighteen years of age is guilty of a class B felony.

(3) It is unlawful for any person to cause to be placed in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation offering for sale imitation controlled substances. Any person who violates this subsection is guilty of a class C felony.

(4) No civil or criminal liability shall be imposed by virtue of this chapter on any person registered under the Uniform Controlled Substances Act pursuant to RCW 69.50.301 or 69.50.303 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or other use by a registered practitioner, as defined in *RCW 69.50.101(t), in the course of professional practice or research.

(5) No prosecution under this chapter shall be dismissed solely by reason of the fact that the dosage units were contained in a bottle or other container with a label accurately describing the ingredients of the imitation controlled substance dosage units. The good faith of the defendant shall be an issue of fact for the trier of fact.

[1983 1st ex.s. c 4 § 5; 1982 c 171 § 4.]

NOTES:

***Reviser's note:** The reference to RCW 69.50.101(t) is erroneous. "Practitioner" is defined in (w) of that section. RCW 69.50.101 was amended by 2013 c 3 § 2, changing subsection (w) to subsection (cc). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (cc) to subsection (dd). RCW 69.50.101 was subsequently amended by 2014 c 192 § 1, changing subsection (dd) to subsection (ee). RCW 69.50.101 was subsequently alphabetized pursuant to RCW 1.08.015(2)(k), changing subsection (ee) to subsection (jj).

Severability—1983 1st ex.s. c 4: See note following RCW 9A.48.070.

69.52.040

Seizure of contraband.

Imitation controlled substances shall be subject to seizure, forfeiture, and disposition in the same manner as are controlled substances under RCW 69.50.505.

[1982 c 171 § 5.]

69.52.045

Seizure at rental premises—Notification of landlord.

Whenever an imitation controlled substance which is manufactured, distributed, or possessed in violation of this chapter is seized at rental premises, the law enforcement agency shall make a reasonable attempt to

discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure.
[1988 c 150 § 10.]
NOTES:
Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

69.52.050
Injunctive action by attorney general authorized.

The attorney general is authorized to apply for injunctive action against a manufacturer or distributor of imitation controlled substances in this state.
[1982 c 171 § 6.]

69.52.060
Injunctive or other legal action by manufacturer of controlled substances authorized.

Any manufacturer of controlled substances licensed or registered in a state requiring such licensure or registration, may bring injunctive or other action against a manufacturer or distributor of imitation controlled substances in this state.
[1982 c 171 § 7.]

69.52.070
Violations—Juvenile driving privileges.

(1) If a juvenile thirteen years of age or older and under the age of twenty-one is found by a court to have committed any offense that is a violation of this chapter, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(2) Except as otherwise provided in subsection (3) of this section, upon petition of a juvenile whose privilege to drive has been revoked pursuant to RCW 46.20.265, the court may at any time the court deems appropriate notify the department of licensing to reinstate the juvenile's privilege to drive.

(3) If the conviction is for the juvenile's first violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered. If the conviction was for the juvenile's second or subsequent violation of this chapter or chapter 66.44, 69.41, or 69.50 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the later of the date the juvenile turns seventeen or one year after the date judgment was entered.
[1989 c 271 § 121; 1988 c 148 § 6.]

NOTES:

Severability—1989 c 271: See note following RCW 9.94A.510.

Legislative finding—Severability—1988 c 148: See notes following RCW 13.40.265.

69.52.900

Severability—1982 c 171.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1982 c 171 § 8.]

69.52.901

Effective date—1982 c 171.

This act shall take effect on July 1, 1982.
[1982 c 171 § 10.]

Chapter 69.53 RCW

USE OF BUILDINGS FOR UNLAWFUL DRUGS

Sections

69.53.010 Unlawful use of building for drug purposes—Liability of owner or manager—Penalty.
69.53.020 Unlawful fortification of building for drug purposes—Penalty.
69.53.030 Unlawful use of fortified building—Penalty.

69.53.010

Unlawful use of building for drug purposes—Liability of owner or manager—Penalty.

(1) It is unlawful for any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly rent, lease, or make available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, delivering, selling, storing, or giving away any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section to, in good faith, notify a law enforcement agency of suspected drug activity pursuant to subsection (1) of this section, or to process an unlawful detainer action for drug-related activity against the tenant or occupant.

(3) A violation of this section is a class C felony punishable under chapter 9A.20 RCW.

[1988 c 150 § 13; 1987 c 458 § 7.]

NOTES:

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

Severability—1987 c 458: See note following RCW 48.21.160.

69.53.020

Unlawful fortification of building for drug purposes—Penalty.

(1) It is unlawful for any person who has under his or her management or control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, to knowingly allow the building, room, space, or enclosure to be fortified to suppress law enforcement entry in order to further the unlawful manufacture, delivery, sale, storage, or gift of any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) It shall be a defense for an owner, manager, or other person in control pursuant to subsection (1) of this section to, in good faith, notify a law enforcement agency of suspected drug activity pursuant to subsection (1) of this section, or to process an unlawful detainer action for drug-related activity against the tenant or occupant.

(3) A violation of this section is a class C felony punishable under chapter 9A.20 RCW.

[1988 c 150 § 14; 1987 c 458 § 8.]

NOTES:

Legislative findings—Severability—1988 c 150: See notes following RCW 59.18.130.

Severability—1987 c 458: See note following RCW 48.21.160.

69.53.030

Unlawful use of fortified building—Penalty.

(1) It is unlawful for any person to use a building, room, space, or enclosure specifically designed to suppress law enforcement entry in order to unlawfully manufacture, deliver, sell, store, or give away any controlled substance under chapter 69.50 RCW, legend drug under chapter 69.41 RCW, or imitation controlled substance under chapter 69.52 RCW.

(2) A violation of this section is a class C felony punishable under chapter 9A.20 RCW.

[1987 c 458 § 9.]

NOTES:

Severability—1987 c 458: See note following RCW 48.21.160.

Chapter 69.60 RCW

OVER-THE-COUNTER MEDICATIONS

Sections

69.60.010	Legislative findings.
69.60.020	Definitions.
69.60.030	Identification required.
69.60.040	Imprint information—Publication—Availability.
69.60.050	Noncompliance—Contraband—Fine.
69.60.060	Rules.
69.60.070	Imprinting requirements—Retailers and wholesalers.
69.60.080	Exemptions—Application by manufacturer.
69.60.090	Implementation of federal system—Termination of state system.
69.60.900	Severability—1993 c 135.
69.60.901	Effective date—1993 c 135.

69.60.010
Legislative findings.

The legislature of the state of Washington finds that:

(1) Accidental and purposeful ingestions of solid medication forms continue to be the most frequent cause of poisoning in our state;

(2) Modern treatment is dependent upon knowing the ingredients of the ingestant;

(3) The imprinting of identifying characteristics on all tablets, capsules, and caplets of prescription medication forms, both trade name products and generic products, has been extremely beneficial in our state and was accomplished at trivial cost to the manufacturers and consumers;

(4) Although over-the-counter medications usually constitute a lower order of risk to ingestees, treatment after overdose is equally dependent upon knowing the ingredients involved, but there is no coding index uniformly used by this class of medication;

(5) Approximately seventy percent of over-the-counter medications in solid form already have some type of an identifier imprinted on their surfaces;

(6) While particular efforts are being instituted to prevent recurrent tampering with over-the-counter medications, the added benefit of rapid and prompt identification of all possible contaminated products, including over-the-counter medications, would make for a significant improvement in planning for appropriate tracking and monitoring programs;

(7) At the same time, health care professionals serving the elderly find it especially advantageous to be able to identify and confirm the ingredients of their multiple medications, including over-the-counter products, as are often consumed by such patients;

(8) The legislature supports and encourages efforts that are being made to establish a national, legally enforceable system governing the imprinting of solid dosage form over-the-counter medications, which system is consistent with the requirements of this chapter.

[1989 c 247 § 1.]

69.60.020
Definitions.

The terms defined in this section shall have the meanings indicated when used in this chapter.

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

(2) "Over-the-counter medication" means a drug that can be obtained without a prescription and is not restricted to use by prescribing practitioners. For purposes of this chapter, over-the-counter medication does not include vitamins.

(3) "Purveyor" means any corporation, person, or other entity that offers over-the-counter medications for wholesale, retail, or other type of sale.

(4) "Solid dosage form" means capsules or tablets or similar over-the-counter medication products intended for administration and which could be ingested orally.

[2013 c 19 § 117; 1989 c 247 § 3.]

NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

69.60.030

Identification required.

(1) No over-the-counter medication in solid dosage form may be manufactured or commercially distributed within this state unless it has clearly marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or national drug code number identifying the medication and the manufacturer or distributor of the medication: PROVIDED, HOWEVER, That an over-the-counter medication which has clearly marked or imprinted on it a distinctive logo, symbol, product name, letters, or other identifying mark, or which by its color, shape, or size together with a distinctive logo, symbol, product name, letters, or other mark is identifiable, shall be deemed in compliance with the provisions of this chapter.

(2) No manufacturer may sell any over-the-counter medication in solid dosage form contained within a bottle, vial, carton, or other container, or in any way affixed or appended to or enclosed within a package of any kind designed or intended for delivery in such container or package to an ultimate consumer within this state unless such container or package has clearly and permanently marked or imprinted on it an individual symbol, number, company name, words, letters, marking, or national drug code number identifying the medication and the manufacturer, packer, or distributor of the medication.

[1993 c 135 § 1; 1989 c 247 § 2.]

69.60.040

Imprint information—Publication—Availability.

Each manufacturer shall publish and provide to the commission printed material which will identify each current imprint used by the manufacturer and the commission shall be notified of any change. This information shall be provided by the commission to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.

[2013 c 19 § 118; 1989 c 247 § 4.]

69.60.050

Noncompliance—Contraband—Fine.

Chapter 69.60 RCW

OVER-THE-COUNTER MEDICATIONS

(1) Any over-the-counter medication prepared or manufactured or offered for sale in violation of this chapter or implementing rules shall be contraband and subject to seizure, in the same manner as contraband legend drugs under RCW 69.41.060.

(2) A purveyor who fails to comply with this chapter after one notice of noncompliance by the board is subject to a one thousand dollar civil fine for each instance of noncompliance.

[1989 c 247 § 5.]

69.60.060

Rules.

The commission shall have authority to promulgate rules for the enforcement and implementation of this chapter.

[2013 c 19 § 119; 1989 c 247 § 6.]

69.60.070

Imprinting requirements—Retailers and wholesalers.

All over-the-counter medications manufactured in, received by, distributed to, or shipped to any retailer or wholesaler in this state after January 1, 1994, shall meet the requirements of this chapter. No over-the-counter medication may be sold to a consumer in this state after January 1, 1995, unless such over-the-counter medication complies with the imprinting requirements of this chapter.

[1993 c 135 § 2; 1989 c 247 § 7.]

69.60.080

Exemptions—Application by manufacturer.

The commission, upon application of a manufacturer, may exempt an over-the-counter drug from the requirements of chapter 69.60 RCW on the grounds that imprinting is infeasible because of size, texture, or other unique characteristics.

[2013 c 19 § 120; 1989 c 247 § 8.]

69.60.090

Implementation of federal system—Termination of state system.

Before January 1, 1994, the commission will consult with the state toxicologist to determine whether the federal government has established a legally enforceable system that is substantially equivalent to the requirements of this chapter that govern the imprinting of solid dosage form over-the-counter medication. To be substantially equivalent, the effective dates for implementation of the federal system for imprinting solid dosage form over-the-counter medication must be the same or earlier than the dates of implementation set out

in the state system for imprinting solid dosage form over-the-counter medication. If the commission determines that the federal system for imprinting solid dosage form over-the-counter medication is substantially equivalent to the state system for imprinting solid dosage form over-the-counter medication, this chapter will cease to exist on January 1, 1994. If the commission determines that the federal system is substantially equivalent, except that the federal dates for implementation are later than the Washington state dates, this chapter will cease to exist when the federal system is implemented.
[2013 c 19 § 121; 1993 c 135 § 3; 1989 c 247 § 9.]

69.60.900
Severability—1993 c 135.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
[1993 c 135 § 4.]

69.60.901
Effective date—1993 c 135.

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 shall take effect immediately [April 30, 1993].

Chapter 69.70 RCW

ACCESS TO PRESCRIPTION DRUGS

Sections

69.70.010	Definitions.
69.70.020	Donations of prescription drugs and supplies—Distribution.
69.70.030	Immunity—Eligibility.
69.70.040	Dispensing of donated prescription drugs and supplies—Priority given to individuals who are uninsured and low-income.
69.70.050	Acceptance and dispensing of prescription drugs or supplies—Requirements—Recalls—Reselling—Reimbursement, related dispensing fees—Manufacturer registration.
69.70.060	Rules.
69.70.070	Liability.
69.70.080	Availability of access.
69.70.090	Samples.
69.70.100	Resale of prescription drugs not authorized.
69.70.900	Effective date.

69.70.010

Definitions.

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

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

(2) "Drug manufacturer" means a facility licensed by the *board of pharmacy under chapter 18.64 RCW that engages in the manufacture of drugs or devices.

(3) "Drug wholesaler" means a facility licensed by the *board of pharmacy under chapter 18.64 RCW that buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

(4) "Medical facility" means a hospital, pharmacy, nursing home, boarding home, adult family home, or medical clinic where the prescription drugs are under the control of a practitioner.

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

(6) "Pharmacist" means a person licensed by the *board of pharmacy under chapter 18.64 RCW to practice pharmacy.

(7) "Pharmacy" means a facility licensed by the *board of pharmacy under chapter 18.64 RCW in which the practice of pharmacy is conducted.

(8) "Practitioner" has the same meaning as in RCW 69.41.010.

(9) "Prescribing practitioner" means a person authorized to issue orders or prescriptions for legend drugs as listed in RCW 69.41.030.

(10) "Prescription drugs" has the same meaning as "legend drugs" as defined in RCW 69.41.010. The term includes cancer drugs and antirejection drugs. The term does not include controlled substances.

(11) "Supplies" means the supplies necessary to administer prescription drugs that are donated under the prescription drug redistribution program.

[2013 c 260 § 1.]

NOTES:

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

69.70.020

Donations of prescription drugs and supplies—Distribution.

Any practitioner, pharmacist, medical facility, drug manufacturer, or drug wholesaler may donate prescription drugs and supplies to a pharmacy for redistribution without compensation or the expectation of compensation to individuals who meet the prioritization criteria established in RCW 69.70.040. Donations of prescription drugs and supplies may be made on the premises of a pharmacy that elects to participate in the provisions of this chapter. A pharmacy that receives prescription drugs or supplies may distribute the prescription drugs or supplies to another pharmacy, pharmacist, or prescribing practitioner for use pursuant to the program.

[2013 c 260 § 2.]

69.70.030

Immunity—Eligibility.

To be eligible for the immunity in RCW 69.70.070, a person distributing donated prescription drugs under this chapter must:

(1) Meet all requirements in RCW 69.70.050 and any applicable rules related to the return or exchange of prescription drugs or supplies adopted by the *board of pharmacy;

(2) Maintain records of any prescription drugs and supplies donated to the pharmacy and subsequently dispensed by the pharmacy; and

(3) Identify itself to the public as participating in this chapter.

[2013 c 260 § 3.]

NOTES:

***Reviser's note:** Chapter 19, Laws of 2013 changed "state board of pharmacy" to "pharmacy quality assurance commission."

69.70.040

Dispensing of donated prescription drugs and supplies—Priority given to individuals who are uninsured and low-income.

Pharmacies, pharmacists, and prescribing practitioners that elect to dispense donated prescription drugs and supplies under this chapter shall give priority to individuals who are uninsured and at or below two hundred percent of the federal poverty level. If an uninsured and low-income individual has not been identified as in need of available prescription drugs and supplies, those prescription drugs and supplies may be dispensed to other individuals expressing need.

[2013 c 260 § 4.]

69.70.050

Acceptance and dispensing of prescription drugs or supplies—Requirements—Recalls—Reselling—Reimbursement, related dispensing fees—Manufacturer registration.

Chapter 69.70 RCW

ACCESS TO PRESCRIPTION DRUGS

(1) Prescription drugs or supplies may be accepted and dispensed under this chapter if all of the following conditions are met:

(a) The prescription drug is in:

(i) Its original sealed and tamper evident packaging; or

(ii) An opened package if it contains single unit doses that remain intact;

(b) The prescription drug bears an expiration date that is more than six months after the date the prescription drug was donated;

(c) The prescription drug or supplies are inspected before the prescription drug or supplies are dispensed by a pharmacist employed by or under contract with the pharmacy, and the pharmacist determines that the prescription drug or supplies are not adulterated or misbranded;

(d) The prescription drug or supplies are prescribed by a practitioner for use by an eligible individual and are dispensed by a pharmacist; and

(e) Any other safety precautions established by the department have been satisfied.

(2)(a) If a person who donates prescription drugs or supplies to a pharmacy under this chapter receives a notice that the donated prescription drugs or supplies have been recalled, the person shall notify the pharmacy of the recall.

(b) If a pharmacy that receives and distributes donated prescription drugs to another pharmacy, pharmacist, or prescribing practitioner under this chapter receives notice that the donated prescription drugs or supplies have been recalled, the pharmacy shall notify the other pharmacy, pharmacist, or prescribing practitioner of the recall.

(c) If a person collecting or distributing donated prescription drugs or supplies under this chapter receives a recall notice from the drug manufacturer or the federal food and drug administration for donated prescription drugs or supplies, the person shall immediately remove all recalled medications from stock and comply with the instructions in the recall notice.

(3) Prescription drugs and supplies donated under this chapter may not be resold.

(4) Prescription drugs and supplies dispensed under this chapter shall not be eligible for reimbursement of the prescription drug or any related dispensing fees by any public or private health care payer.

(5) A prescription drug that can only be dispensed to a patient registered with the manufacturer of that drug, in accordance with the requirements established by the federal food and drug administration, may not be accepted or distributed under the program.

[2013 c 260 § 5.]

69.70.060

Rules.

(1) The department must adopt rules establishing forms and procedures to: Reasonably verify eligibility and prioritize patients seeking to receive donated prescription drugs and supplies; and inform a person receiving prescription drugs donated under this program that the prescription drugs have been donated for the purposes of redistribution. A patient's eligibility may be determined by a form signed by the patient certifying that the patient is uninsured and at or below two hundred percent of the federal poverty level.

(2) The department may establish any other rules necessary to implement this chapter.

[2013 c 260 § 6.]

69.70.070

Liability.

(1) A drug manufacturer acting in good faith may not, in the absence of a finding of gross negligence, be subject to criminal prosecution or liability in tort or other civil action, for injury, death, or loss to person or property for matters relating to the donation, acceptance, or dispensing of a drug manufactured by the drug manufacturer that is donated by any person under the program including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(2) Any person or entity, other than a drug manufacturer subject to subsection (1) of this section, acting in good faith in donating, accepting, or distributing prescription drugs under this chapter is immune from criminal prosecution, professional discipline, or civil liability of any kind for any injury, death, or loss to any person or property relating to such activities other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(3) The immunity provided under subsection (1) of this section does not absolve a drug manufacturer of a criminal or civil liability that would have existed but for the donation, nor does such donation increase the liability of the drug manufacturer in such an action.

[2013 c 260 § 7.]

69.70.080

Availability of access.

Access to prescription drugs and supplies under this chapter is subject to availability. Nothing in this chapter establishes an entitlement to receive prescription drugs and supplies through the program.

[2013 c 260 § 8.]

69.70.090

Samples.

Nothing in this chapter restricts the use of samples by a practitioner during the course of the practitioner's duties at a medical facility or pharmacy.

[2013 c 260 § 9.]

69.70.100

Resale of prescription drugs not authorized.

Nothing in this chapter authorizes the resale of prescription drugs by any person.

[2013 c 260 § 10.]

Chapter 69.70 RCW

ACCESS TO PRESCRIPTION DRUGS

69.70.900

Effective date.

This act takes effect July 1, 2014.

[2013 c 260 § 12.]

Chapter 69.75 RCW
DEXTROMETHORPHAN

Sections

69.75.010	Definitions.
69.75.020	Retail sales—Proof of age from purchaser—Unlawful acts, exceptions—Penalties.
69.75.030	List of products containing dextromethorphan, trade association representing manufacturers to supply.
69.75.040	Construction of chapter.
69.75.050	Preemption.
69.75.900	Effective date—2014 c 64.

69.75.010
Definitions.

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

(1) "Common carrier" means any person who holds himself or herself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

(2) "Finished drug product" means a drug legally marketed under the federal food, drug, and cosmetic act, 21 U.S.C. 321 et seq., that is in finished dosage form.

(3) "Proof of age" means any document issued by a governmental agency that contains a description or photograph of the person and gives the person's date of birth, including a passport, military identification card, or driver's license.

(4) "Unfinished dextromethorphan" means dextromethorphan in any form, compound, mixture, or preparation that is not a drug in finished dosage form.

[2014 c 64 § 1.]

69.75.020
Retail sales—Proof of age from purchaser—Unlawful acts, exceptions—Penalties.

(1) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older.

(2) It is unlawful for any:

(a) Commercial entity to knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a person less than eighteen years of age; or

(b) Person who is less than eighteen years of age to purchase a finished drug product containing any quantity of dextromethorphan.

(3) Subsection (2)(a) and (b) of this section do [does] not apply if an individual under eighteen years of age:

(a) Supplies proof at the time of sale that such individual is actively enrolled in the military and presents a valid military identification card; or

(b) Supplies proof of emancipation.

(4)(a) Any manufacturer, distributor, or retailer whose employee or representative, during the course of the employee's or representative's employment or association with that manufacturer, distributor, or retailer sells or trades dextromethorphan in violation of subsection (2)(a) of this section must be given a written warning by a law enforcement agency for the first offense. For any subsequent offense, the manufacturer, distributor, or retailer is guilty of a class 1 civil infraction as provided in RCW 7.80.120, except for any manufacturer, distributor, or retailer who demonstrates a good faith effort to comply with the requirements of this chapter.

(b) Any employee or representative of a manufacturer, distributor, or retailer who, during the course of the employee's or representative's employment or association with that manufacturer, distributor, or retailer sells or trades dextromethorphan in violation of subsection (2)(a) of this section must be given a written warning by a law enforcement agency for the first offense. For any subsequent offense, the employee or representative is guilty of a class 1 civil infraction as provided in RCW 7.80.120.

(c) Any person who purchases dextromethorphan in violation of subsection (2)(b) of this section must be given a written warning by a law enforcement agency for the first offense. For any subsequent offense, the person is guilty of a class 1 civil infraction as provided in RCW 7.80.120.

[2014 c 64 § 2.]

69.75.030

List of products containing dextromethorphan, trade association representing manufacturers to supply.

The trade association representing manufacturers of dextromethorphan shall supply to the pharmacy quality assurance commission and requesting licensed retailers an initial list of products containing dextromethorphan that its members market. This list shall be updated on an annual basis. The trade association representing manufacturers of dextromethorphan shall make other reasonable efforts to communicate the requirements of chapter 64, Laws of 2014.

[2014 c 64 § 3.]

69.75.040

Construction of chapter.

(1) Nothing in this chapter is construed to impose any compliance requirement on a retail entity other than manually obtaining and verifying proof of age as a condition of sale, including placement of products in a specific place within a store, other restrictions on consumers' direct access to finished drug products, or the maintenance of transaction records.

(2) The provisions of this chapter do not apply to medication containing dextromethorphan that is sold pursuant to a valid prescription.

[2014 c 64 § 4.]

69.75.050

Preemption.

Chapter 69.75 RCW

DEXTROMETHORPHAN

This chapter preempts any ordinance regulating the sale, distribution, receipt, or possession of dextromethorphan enacted by a county, city, town, or other political subdivision of this state, and dextromethorphan is not subject to further regulation by such subdivisions.
[2014 c 64 § 5.]

69.75.900

Effective date—2014 c 64.

This act takes effect July 1, 2015.
[2014 c 64 § 7.]

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

Sections

70.02.005 Findings.
70.02.010 Definitions *(as amended by 2014 c 220)*.
70.02.010 Definitions *(as amended by 2014 c 225)*.
70.02.020 Disclosure by health care provider.
70.02.030 Patient authorization of disclosure.
70.02.040 Patient's revocation of authorization for disclosure.
70.02.045 Third-party payor release of information.
70.02.050 Disclosure without patient's authorization—Need-to-know basis.
70.02.060 Discovery request or compulsory process.
70.02.070 Certification of record.
70.02.080 Patient's examination and copying—Requirements.
70.02.090 Patient's request—Denial of examination and copying.
70.02.100 Correction or amendment of record.
70.02.110 Correction or amendment or statement of disagreement—Procedure.
70.02.120 Notice of information practices—Display conspicuously.
70.02.130 Consent by others—Health care representatives.
70.02.140 Representative of deceased patient.
70.02.150 Security safeguards.
70.02.160 Retention of record.
70.02.170 Civil remedies.
70.02.180 Licensees under chapter 18.225 RCW—Subject to chapter.
70.02.200 Disclosure without patient's authorization—Permitted and mandatory disclosures.
70.02.210 Disclosure without patient's authorization—Research.
70.02.220 Sexually transmitted diseases—Permitted and mandatory disclosures.
70.02.230 Mental health services, confidentiality of records—Permitted disclosures.
70.02.240 Mental health services—Minors—Permitted disclosures.
70.02.250 Mental health services—Department of corrections.
70.02.260 Mental health services—Requests for information and records.
70.02.270 Health care information—Use or disclosure prohibited.
70.02.280 Health care providers and facilities—Prohibited actions.
70.02.290 Agency rule-making requirements—Use/destruction of health care information by certain state and local agencies—Unauthorized disclosure—Notice—Rules/policies available on agency's web site.
70.02.300 Sexually transmitted diseases—Required statement upon disclosure.
70.02.310 Mental health services—Information and records.
70.02.320 Mental health services—Minors—Prompt entry in record upon disclosure.
70.02.330 Obtaining confidential records under false pretenses—Penalty.
70.02.340 Disclosure of information and records related to mental health services—Agency rule-making authority.
70.02.350 Department of social and health services—Release of information to protect the public.
70.02.900 Conflicting laws.
70.02.901 Application and construction—1991 c 335.
70.02.902 Short title.
70.02.903 Severability—1991 c 335.
70.02.904 Captions not law—1991 c 335.
70.02.905 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

NOTES:

Record retention by hospitals: RCW 70.41.190.

70.02.005

Findings.

The legislature finds that:

(1) Health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy, health care, or other interests.

(2) Patients need access to their own health care information as a matter of fairness to enable them to make informed decisions about their health care and correct inaccurate or incomplete information about themselves.

(3) In order to retain the full trust and confidence of patients, health care providers have an interest in assuring that health care information is not improperly disclosed and in having clear and certain rules for the disclosure of health care information.

(4) Persons other than health care providers obtain, use, and disclose health record information in many different contexts and for many different purposes. It is the public policy of this state that a patient's interest in the proper use and disclosure of the patient's health care information survives even when the information is held by persons other than health care providers.

(5) The movement of patients and their health care information across state lines, access to and exchange of health care information from automated data banks, and the emergence of multistate health care providers creates a compelling need for uniform law, rules, and procedures governing the use and disclosure of health care information.

[1991 c 335 § 101.]

70.02.010

Definitions (as amended by 2014 c 220).

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

(1) "Admission" has the same meaning as in RCW 71.05.020.

(2) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

(a) Statutory, regulatory, fiscal, medical, or scientific standards;

(b) A private or public program of payments to a health care provider; or

(c) Requirements for licensing, accreditation, or certification.

(3) "Commitment" has the same meaning as in RCW 71.05.020.

(4) "Custody" has the same meaning as in RCW 71.05.020.

(5) "Deidentified" means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(6) "Department" means the department of social and health services.

(7) "Designated mental health professional" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(8) "Detention" or "detain" has the same meaning as in RCW 71.05.020.

(9) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(10) "Discharge" has the same meaning as in RCW 71.05.020.

(11) "Evaluation and treatment facility" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(12) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

(13) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(14) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

(15) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(16) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

(17) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset for the benefit of the health care provider, health care facility, or third-party payor.

(18) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(19) "Human immunodeficiency virus" or "HIV" has the same meaning as in RCW 70.24.017.

(20) "Imminent" has the same meaning as in RCW 71.05.020.

(21) "Information and records related to mental health services" means a type of health care information that relates to all information and records((~~, including mental health treatment records,~~)) compiled, obtained, or maintained in the course of providing services by a mental health service agency((~~, as defined in this section~~)) or mental health professional to persons who are receiving or have received services for mental illness. The term includes mental health information contained in a medical bill, registration records, as defined in RCW 71.05.020, and all other records regarding the person maintained by the department, by regional support networks and their staff, and by treatment facilities. ((~~This may~~)) The term further includes documents of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic health care information. For health care information maintained by a hospital as defined in RCW 70.41.020 or a health care facility or health care provider that participates with a hospital in an organized health care arrangement defined under federal law, "information and records related to mental health services" is limited to information and records of services provided by a mental health professional or information and records of services created by a hospital-operated community mental health program as defined in RCW 71.24.025(6). The term does not include psychotherapy notes.

(22) "Information and records related to sexually transmitted diseases" means a type of health care information that relates to the identity of any person upon whom an HIV antibody test or other sexually transmitted infection test is performed, the results of such tests, and any information relating to diagnosis of or treatment for any confirmed sexually transmitted infections.

(23) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(24) "Legal counsel" has the same meaning as in RCW 71.05.020.

(25) "Local public health officer" has the same meaning as in RCW 70.24.017.

(26) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(27) "Mental health professional" ((~~has the same meaning as in RCW 71.05.020~~)) means a psychiatrist, psychologist, 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 of social and health services under chapter 71.05 RCW, whether that person works in a private or public setting.

(28) "Mental health service agency" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 or 71.34.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.34.020, community mental health service delivery systems, or community mental health programs, as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

(29) ((~~"Mental health treatment records" include registration records, as defined in RCW 71.05.020, and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by regional support networks and their staff, and by treatment facilities. "Mental health 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. "Mental health treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the department, regional support networks, or a treatment facility if the notes or records are not available to others.~~

~~(30)~~)) "Minor" has the same meaning as in RCW 71.34.020.

((~~(31)~~)) (30) "Parent" has the same meaning as in RCW 71.34.020.

((~~(32)~~)) (31) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

((~~(33)~~)) (32) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

((~~(34)~~)) (33) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

((~~(35)~~)) (34) "Professional person" has the same meaning as in RCW 71.05.020.

((~~(36)~~)) (35) "Psychiatric advanced registered nurse practitioner" has the same meaning as in RCW 71.05.020.

((~~(37)~~)) (36) "Psychotherapy notes" means notes recorded, in any medium, by a mental health professional documenting or analyzing the contents of conversations during a private counseling session or group, joint, or family counseling session, and that are separated from the rest of the individual's medical record. The term excludes mediation prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: Diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.

(37) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

(38) "Release" has the same meaning as in RCW 71.05.020.

(39) "Resource management services" has the same meaning as in RCW 71.05.020.

(40) "Serious violent offense" has the same meaning as in RCW 71.05.020.

(41) "Sexually transmitted infection" or "sexually transmitted disease" has the same meaning as "sexually transmitted disease" in RCW 70.24.017.

(42) "Test for a sexually transmitted disease" has the same meaning as in RCW 70.24.017.

(43) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan, excluding fitness or wellness plans; or a state or federal health benefit program.

(44) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

[2014 c 220 § 4; 2013 c 200 § 1; 2006 c 235 § 2; 2005 c 468 § 1; 2002 c 318 § 1; 1993 c 448 § 1; 1991 c 335 § 102.]

NOTES:

Reviser's note: For charges or fees under subsection (37) of this section as adjusted by the secretary of health, see chapter 246-08 WAC.

Effective date—2014 c 220: See note following RCW 70.02.290.

70.02.010

Definitions (as amended by 2014 c 225). (*Effective April 1, 2016.*)

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

(1) "Admission" has the same meaning as in RCW 71.05.020.

(2) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

(a) Statutory, regulatory, fiscal, medical, or scientific standards;

(b) A private or public program of payments to a health care provider; or

(c) Requirements for licensing, accreditation, or certification.

(3) "Commitment" has the same meaning as in RCW 71.05.020.

(4) "Custody" has the same meaning as in RCW 71.05.020.

(5) "Deidentified" means health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual.

(6) "Department" means the department of social and health services.

(7) "Designated mental health professional" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(8) "Detention" or "detain" has the same meaning as in RCW 71.05.020.

(9) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, location within a health care facility, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(10) "Discharge" has the same meaning as in RCW 71.05.020.

(11) "Evaluation and treatment facility" has the same meaning as in RCW 71.05.020 or 71.34.020, as applicable.

(12) "Federal, state, or local law enforcement authorities" means an officer of any agency or authority in the United States, a state, a tribe, a territory, or a political subdivision of a state, a tribe, or a territory who is empowered by law to: (a) Investigate or conduct an official inquiry into a potential criminal violation of law; or (b) prosecute or otherwise conduct a criminal proceeding arising from an alleged violation of law.

(13) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(14) "Health care" means any care, service, or procedure provided by a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or any function of the human body.

(15) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(16) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any required accounting of disclosures of health care information.

(17) "Health care operations" means any of the following activities of a health care provider, health care facility, or third-party payor to the extent that the activities are related to functions that make an entity a health care provider, a health care facility, or a third-party payor:

(a) Conducting: Quality assessment and improvement activities, including outcomes evaluation and development of clinical guidelines, if the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities; population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination, contacting of health care providers and patients with information about treatment alternatives; and related functions that do not include treatment;

(b) Reviewing the competence or qualifications of health care professionals, evaluating practitioner and provider performance and third-party payor performance, conducting training programs in which students, trainees, or practitioners in areas of health care learn under supervision to practice or improve their skills as health care providers, training of nonhealth care professionals, accreditation, certification, licensing, or credentialing activities;

(c) Underwriting, premium rating, and other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits, and ceding, securing, or placing a contract for reinsurance of risk relating to claims for health care, including stop-loss insurance and excess of loss insurance, if any applicable legal requirements are met;

(d) Conducting or arranging for medical review, legal services, and auditing functions, including fraud and abuse detection and compliance programs;

(e) Business planning and development, such as conducting cost-management and planning-related analyses related to managing and operating the health care facility or third-party payor, including formulary development and administration, development, or improvement of methods of payment or coverage policies; and

(f) Business management and general administrative activities of the health care facility, health care provider, or third-party payor including, but not limited to:

(i) Management activities relating to implementation of and compliance with the requirements of this chapter;

(ii) Customer service, including the provision of data analyses for policy holders, plan sponsors, or other customers, provided that health care information is not disclosed to such policy holder, plan sponsor, or customer;

(iii) Resolution of internal grievances;

(iv) The sale, transfer, merger, or consolidation of all or part of a health care provider, health care facility, or third-party payor with another health care provider, health care facility, or third-party payor or an entity that following such activity will become a health care provider, health care facility, or third-party payor, and due diligence related to such activity; and

(v) Consistent with applicable legal requirements, creating deidentified health care information or a limited dataset for the benefit of the health care provider, health care facility, or third-party payor.

(18) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(19) "Human immunodeficiency virus" or "HIV" has the same meaning as in RCW 70.24.017.

(20) "Imminent" has the same meaning as in RCW 71.05.020.

(21) "Information and records related to mental health services" means a type of health care information that relates to all information and records, including mental health treatment records, compiled, obtained, or maintained in the course of providing services by a mental health service agency, as defined in this section. This may include documents of legal proceedings under chapter 71.05, 71.34, or 10.77 RCW, or somatic health care information. For health care information maintained by a hospital as defined in RCW 70.41.020 or a health care facility or health care provider that participates with a hospital in an organized health care arrangement defined under federal law, "information and records related to mental health services" is limited to information and records of services provided by a mental health professional or information and records of services created by a hospital-operated community mental health program as defined in RCW 71.24.025(8).

(22) "Information and records related to sexually transmitted diseases" means a type of health care information that relates to the identity of any person upon whom an HIV antibody test or other sexually transmitted infection test is performed, the results of such tests, and any information relating to diagnosis of or treatment for any confirmed sexually transmitted infections.

(23) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(24) "Legal counsel" has the same meaning as in RCW 71.05.020.

(25) "Local public health officer" has the same meaning as in RCW 70.24.017.

(26) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(27) "Mental health professional" has the same meaning as in RCW 71.05.020.

(28) "Mental health service agency" means a public or private agency that provides services to persons with mental disorders as defined under RCW 71.05.020 or 71.34.020 and receives funding from public sources. This includes evaluation and treatment facilities as defined in RCW 71.34.020, community mental

health service delivery systems, or community mental health programs, as defined in RCW 71.24.025, and facilities conducting competency evaluations and restoration under chapter 10.77 RCW.

(29) "Mental health treatment records" include registration records, as defined in RCW 71.05.020, and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department, by ((~~regional support networks~~)) behavioral health organizations and their staffs, and by treatment facilities. "Mental health 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. "Mental health treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the department, ((~~regional support networks~~)) behavioral health organizations, or a treatment facility if the notes or records are not available to others.

(30) "Minor" has the same meaning as in RCW 71.34.020.

(31) "Parent" has the same meaning as in RCW 71.34.020.

(32) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(33) "Payment" means:

(a) The activities undertaken by:

(i) A third-party payor to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits by the third-party payor; or

(ii) A health care provider, health care facility, or third-party payor, to obtain or provide reimbursement for the provision of health care; and

(b) The activities in (a) of this subsection that relate to the patient to whom health care is provided and that include, but are not limited to:

(i) Determinations of eligibility or coverage, including coordination of benefits or the determination of cost-sharing amounts, and adjudication or subrogation of health benefit claims;

(ii) Risk adjusting amounts due based on enrollee health status and demographic characteristics;

(iii) Billing, claims management, collection activities, obtaining payment under a contract for reinsurance, including stop-loss insurance and excess of loss insurance, and related health care data processing;

(iv) Review of health care services with respect to medical necessity, coverage under a health plan, appropriateness of care, or justification of charges;

(v) Utilization review activities, including precertification and preauthorization of services, and concurrent and retrospective review of services; and

(vi) Disclosure to consumer reporting agencies of any of the following health care information relating to collection of premiums or reimbursement:

(A) Name and address;

(B) Date of birth;

(C) Social security number;

(D) Payment history;

(E) Account number; and

(F) Name and address of the health care provider, health care facility, and/or third-party payor.

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

(35) "Professional person" has the same meaning as in RCW 71.05.020.

(36) "Psychiatric advanced registered nurse practitioner" has the same meaning as in RCW 71.05.020.

(37) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

(38) "Release" has the same meaning as in RCW 71.05.020.

(39) "Resource management services" has the same meaning as in RCW 71.05.020.

(40) "Serious violent offense" has the same meaning as in RCW 71.05.020.

(41) "Sexually transmitted infection" or "sexually transmitted disease" has the same meaning as "sexually transmitted disease" in RCW 70.24.017.

(42) "Test for a sexually transmitted disease" has the same meaning as in RCW 70.24.017.

(43) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan, excluding fitness or wellness plans; or a state or federal health benefit program.

(44) "Treatment" means the provision, coordination, or management of health care and related services by one or more health care providers or health care facilities, including the coordination or management of health care by a health care provider or health care facility with a third party; consultation between health care providers or health care facilities relating to a patient; or the referral of a patient for health care from one health care provider or health care facility to another.

[2014 c 225 § 70; 2013 c 200 § 1; 2006 c 235 § 2; 2005 c 468 § 1; 2002 c 318 § 1; 1993 c 448 § 1; 1991 c 335 § 102.]

NOTES:

Reviser's note: (1) RCW 70.02.010 was amended twice during the 2014 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

(2) For charges or fees under subsection (37) of this section as adjusted by the secretary of health, see chapter 246-08 WAC.

Effective date—2014 c 225: See note following RCW 71.24.016.

Effective date—2013 c 200: "Except for section 5 of this act, this act takes effect July 1, 2014." [2013 c 200 § 35.]

Purpose—Effective date—2006 c 235: See notes following RCW 70.02.050.

Effective date—1993 c 448: "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 shall take effect July 1, 1993." [1993 c 448 § 9.]

70.02.020

Disclosure by health care provider.

(1) Except as authorized elsewhere in this chapter, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health care information about a patient to any other person without the patient's written authorization. A disclosure made under a patient's written authorization must conform to the authorization.

(2) A patient has a right to receive an accounting of disclosures of health care information made by a health care provider or a health care facility in the six years before the date on which the accounting is requested, except for disclosures:

(a) To carry out treatment, payment, and health care operations;

(b) To the patient of health care information about him or her;

(c) Incident to a use or disclosure that is otherwise permitted or required;

(d) Pursuant to an authorization where the patient authorized the disclosure of health care information about himself or herself;

(e) Of directory information;

(f) To persons involved in the patient's care;

(g) For national security or intelligence purposes if an accounting of disclosures is not permitted by law;

(h) To correctional institutions or law enforcement officials if an accounting of disclosures is not permitted by law; and

(i) Of a limited data set that excludes direct identifiers of the patient or of relatives, employers, or household members of the patient.

[2014 c 220 § 5; 2013 c 200 § 2; 2005 c 468 § 2; 1993 c 448 § 2; 1991 c 335 § 201.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

Effective date—1993 c 448: See note following RCW 70.02.010.

70.02.030

Patient authorization of disclosure.

(1) A patient may authorize a health care provider or health care facility to disclose the patient's health care information. A health care provider or health care facility shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider or health care facility denies the patient access to health care information under RCW 70.02.090.

(2) A health care provider or health care facility may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider or health care facility shall:

(a) Be in writing, dated, and signed by the patient;

(b) Identify the nature of the information to be disclosed;

(c) Identify the name and institutional affiliation of the person or class of persons to whom the information is to be disclosed;

(d) Identify the provider or class of providers who are to make the disclosure;

(e) Identify the patient; and

(f) Contain an expiration date or an expiration event that relates to the patient or the purpose of the use or disclosure.

(4) Unless disclosure without authorization is otherwise permitted under RCW 70.02.050 or the federal health insurance portability and accountability act of 1996 and its implementing regulations, an authorization may permit the disclosure of health care information to a class of persons that includes:

(a) Researchers if the health care provider or health care facility obtains the informed consent for the use of the patient's health care information for research purposes; or

(b) Third-party payors if the information is only disclosed for payment purposes.

(5) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.

(6) When an authorization permits the disclosure of health care information to a financial institution or an employer of the patient for purposes other than payment, the authorization as it pertains to those disclosures shall expire one year after the signing of the authorization, unless the authorization is renewed by the patient.

(7) A health care provider or health care facility shall retain the original or a copy of each authorization or revocation in conjunction with any health care information from which disclosures are made.

(8) Where the patient is under the supervision of the department of corrections, an authorization signed pursuant to this section for health care information related to mental health or drug or alcohol treatment expires at the end of the term of supervision, unless the patient is part of a treatment program that requires the continued exchange of information until the end of the period of treatment.

[2014 c 220 § 15; 2005 c 468 § 3; 2004 c 166 § 19; 1994 sp.s. c 9 § 741; 1993 c 448 § 3; 1991 c 335 § 202.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Severability—Effective dates—2004 c 166: See notes following RCW 71.05.040.

Severability—Headings and captions not law—Effective date—1994 sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—1993 c 448: See note following RCW 70.02.010.

70.02.040

Patient's revocation of authorization for disclosure.

A patient may revoke in writing a disclosure authorization to a health care provider at any time unless disclosure is required to effectuate payments for health care that has been provided or other substantial action has been taken in reliance on the authorization. A patient may not maintain an action against the health care provider for disclosures made in good-faith reliance on an authorization if the health care provider had no actual notice of the revocation of the authorization.

[1991 c 335 § 203.]

70.02.045

Third-party payor release of information.

Third-party payors shall not release health care information disclosed under this chapter, except as required by chapter 43.371 RCW and to the extent that health care providers are authorized to do so under RCW 70.02.050, 70.02.200, and 70.02.210.

[2015 c 289 § 1; 2014 c 223 § 18; 2000 c 5 § 2.]

NOTES:

Effective date—2015 c 289: "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 immediately [May 18, 2015]." [2015 c 289 § 2.]

Finding—2014 c 223: See note following RCW 41.05.800.

Intent—Purpose—2000 c 5: See RCW 48.43.500.

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

Application—Short title—Captions not law—Construction—Severability—Application to contracts—Effective dates—2000 c 5: See notes following RCW 48.43.500.

70.02.050

Disclosure without patient's authorization—Need-to-know basis.

(1) A health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases which are addressed in RCW 70.02.220, about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is:

(a) To a person who the provider or facility reasonably believes is providing health care to the patient;

(b) To any other person who requires health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, actuarial services to, or other health care operations for or on behalf of the health care provider or health care facility; or for assisting the health care provider or health care facility in the delivery of health care and the health care provider or health care facility reasonably believes that the person:

(i) Will not use or disclose the health care information for any other purpose; and

(ii) Will take appropriate steps to protect the health care information;

(c) To any person if the health care provider or health care facility reasonably believes that disclosure will avoid or minimize an imminent danger to the health or safety of the patient or any other individual, however there is no obligation under this chapter on the part of the provider or facility to so disclose. The fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies is not subject to disclosure unless disclosure is permitted in RCW 70.02.230; or

(d) For payment, including information necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(2) A health care provider shall disclose health care information, except for information and records related to sexually transmitted diseases, unless otherwise authorized in RCW 70.02.220, about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal licensure, certification or registration rules or laws, or to investigate unprofessional conduct or ability to practice with reasonable skill and safety under chapter 18.130 RCW. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW; or

(b) When needed to protect the public health.

[2014 c 220 § 6; 2013 c 200 § 3; 2007 c 156 § 12; 2006 c 235 § 3; 2005 c 468 § 4; 1998 c 158 § 1; 1993 c 448 § 4; 1991 c 335 § 204.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

Purpose—2006 c 235: "The purpose of this act is to aid law enforcement in combating crime through the rapid identification of all persons who require medical treatment as a result of a criminal act and to assist in the rapid identification of human remains." [2006 c 235 § 1.]

Effective date—2006 c 235: "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 immediately [March 27, 2006]." [2006 c 235 § 5.]

Effective date—1993 c 448: See note following RCW 70.02.010.

70.02.060

Discovery request or compulsory process.

(1) Before service of a discovery request or compulsory process on a health care provider for health care information, an attorney shall provide advance notice to the health care provider and the patient or the patient's attorney involved through service of process or first-class mail, indicating the health care provider from whom the information is sought, what health care information is sought, and the date by which a protective order must be obtained to prevent the health care provider from complying. Such date shall give the patient and the health care provider adequate time to seek a protective order, but in no event be less than fourteen days since the date of service or delivery to the patient and the health care provider of the foregoing. Thereafter the request for discovery or compulsory process shall be served on the health care provider.

(2) Without the written consent of the patient, the health care provider may not disclose the health care information sought under subsection (1) of this section if the requestor has not complied with the requirements of subsection (1) of this section. In the absence of a protective order issued by a court of competent jurisdiction forbidding compliance, the health care provider shall disclose the information in accordance with this chapter. In the case of compliance, the request for discovery or compulsory process shall be made a part of the patient record.

(3) Production of health care information under this section, in and of itself, does not constitute a waiver of any privilege, objection, or defense existing under other law or rule of evidence or procedure.

[1991 c 335 § 205.]

70.02.070

Certification of record.

Upon the request of the person requesting the record, the health care provider or facility shall certify the record furnished and may charge for such certification in accordance with RCW 36.18.016(5). No record need be certified until the fee is paid. The certification shall be affixed to the record and disclose:

(1) The identity of the patient;

(2) The kind of health care information involved;

(3) The identity of the person to whom the information is being furnished;

(4) The identity of the health care provider or facility furnishing the information;

(5) The number of pages of the health care information;

(6) The date on which the health care information is furnished; and

(7) That the certification is to fulfill and meet the requirements of this section.

[1995 c 292 § 20; 1991 c 335 § 206.]

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

70.02.080

Patient's examination and copying—Requirements.

(1) Upon receipt of a written request from a patient to examine or copy all or part of the patient's recorded health care information, a health care provider, as promptly as required under the circumstances, but no later than fifteen working days after receiving the request shall:

(a) Make the information available for examination during regular business hours and provide a copy, if requested, to the patient;

(b) Inform the patient if the information does not exist or cannot be found;

(c) If the health care provider does not maintain a record of the information, inform the patient and provide the name and address, if known, of the health care provider who maintains the record;

(d) If the information is in use or unusual circumstances have delayed handling the request, inform the patient and specify in writing the reasons for the delay and the earliest date, not later than twenty-one working days after receiving the request, when the information will be available for examination or copying or when the request will be otherwise disposed of; or

(e) Deny the request, in whole or in part, under RCW 70.02.090 and inform the patient.

(2) Upon request, the health care provider shall provide an explanation of any code or abbreviation used in the health care information. If a record of the particular health care information requested is not maintained by the health care provider in the requested form, the health care provider is not required to create a new record or reformulate an existing record to make the health care information available in the requested form. The health care provider may charge a reasonable fee for providing the health care information and is not required to permit examination or copying until the fee is paid.

[1993 c 448 § 5; 1991 c 335 § 301.]

NOTES:

Effective date—1993 c 448: See note following RCW 70.02.010.

70.02.090

Patient's request—Denial of examination and copying.

(1) Subject to any conflicting requirement in the public records act, chapter 42.56 RCW, a health care provider may deny access to health care information by a patient if the health care provider reasonably concludes that:

(a) Knowledge of the health care information would be injurious to the health of the patient;

(b) Knowledge of the health care information could reasonably be expected to lead to the patient's identification of an individual who provided the information in confidence and under circumstances in which confidentiality was appropriate;

(c) Knowledge of the health care information could reasonably be expected to cause danger to the life or safety of any individual;

(d) The health care information was compiled and is used solely for litigation, quality assurance, peer review, or administrative purposes; or

(e) Access to the health care information is otherwise prohibited by law.

(2) If a health care provider denies a request for examination and copying under this section, the provider, to the extent possible, shall segregate health care information for which access has been denied under subsection (1) of this section from information for which access cannot be denied and permit the patient to examine or copy the disclosable information.

(3) If a health care provider denies a patient's request for examination and copying, in whole or in part, under subsection (1)(a) or (c) of this section, the provider shall permit examination and copying of the record by another health care provider, selected by the patient, who is licensed, certified, registered, or otherwise authorized under the laws of this state to treat the patient for the same condition as the health care provider denying the request. The health care provider denying the request shall inform the patient of the patient's right to select another health care provider under this subsection. The patient shall be responsible for arranging for compensation of the other health care provider so selected.

[2005 c 274 § 331; 1991 c 335 § 302.]

NOTES:

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

70.02.100

Correction or amendment of record.

(1) For purposes of accuracy or completeness, a patient may request in writing that a health care provider correct or amend its record of the patient's health care information to which a patient has access under RCW 70.02.080.

(2) As promptly as required under the circumstances, but no later than ten days after receiving a request from a patient to correct or amend its record of the patient's health care information, the health care provider shall:

(a) Make the requested correction or amendment and inform the patient of the action;

(b) Inform the patient if the record no longer exists or cannot be found;

(c) If the health care provider does not maintain the record, inform the patient and provide the patient with the name and address, if known, of the person who maintains the record;

(d) If the record is in use or unusual circumstances have delayed the handling of the correction or amendment request, inform the patient and specify in writing, the earliest date, not later than twenty-one days after receiving the request, when the correction or amendment will be made or when the request will otherwise be disposed of; or

(e) Inform the patient in writing of the provider's refusal to correct or amend the record as requested and the patient's right to add a statement of disagreement.

[1991 c 335 § 401.]

70.02.110

Correction or amendment or statement of disagreement—Procedure.

(1) In making a correction or amendment, the health care provider shall:

(a) Add the amending information as a part of the health record; and

(b) Mark the challenged entries as corrected or amended entries and indicate the place in the record where the corrected or amended information is located, in a manner practicable under the circumstances.

(2) If the health care provider maintaining the record of the patient's health care information refuses to make the patient's proposed correction or amendment, the provider shall:

(a) Permit the patient to file as a part of the record of the patient's health care information a concise statement of the correction or amendment requested and the reasons therefor; and

(b) Mark the challenged entry to indicate that the patient claims the entry is inaccurate or incomplete and indicate the place in the record where the statement of disagreement is located, in a manner practicable under the circumstances.

(3) A health care provider who receives a request from a patient to amend or correct the patient's health care information, as provided in RCW 70.02.100, shall forward any changes made in the patient's health care information or health record, including any statement of disagreement, to any third-party payor or insurer to which the health care provider has disclosed the health care information that is the subject of the request. [2000 c 5 § 3; 1991 c 335 § 402.]

NOTES:

Intent—Purpose—2000 c 5: See RCW 48.43.500.

Application—Short title—Captions not law—Construction—Severability—Application to contracts—Effective dates—2000 c 5: See notes following RCW 48.43.500.

70.02.120

Notice of information practices—Display conspicuously.

(1) A health care provider who provides health care at a health care facility that the provider operates and who maintains a record of a patient's health care information shall create a "notice of information practices" that contains substantially the following:

NOTICE

"We keep a record of the health care services we provide you. You may ask us to see and copy that record. You may also ask us to correct that record. We will not disclose your record to others unless you direct us to do so or unless the law authorizes or compels us to do so. You may see your record or get more information about it at . . . . . ."

(2) The health care provider shall place a copy of the notice of information practices in a conspicuous place in the health care facility, on a consent form or with a billing or other notice provided to the patient. [1991 c 335 § 501.]

70.02.130

Consent by others—Health care representatives.

(1) A person authorized to consent to health care for another may exercise the rights of that person under this chapter to the extent necessary to effectuate the terms or purposes of the grant of authority. If the patient is a minor and is authorized to consent to health care without parental consent under federal and state law, only the minor may exercise the rights of a patient under this chapter as to information pertaining to health care to which the minor lawfully consented. In cases where parental consent is required, a health care provider may rely, without incurring any civil or criminal liability for such reliance, on the representation of a parent that he or she is authorized to consent to health care for the minor patient regardless of whether:

(a) The parents are married, unmarried, or separated at the time of the representation;

(b) The consenting parent is, or is not, a custodial parent of the minor;

(c) The giving of consent by a parent is, or is not, full performance of any agreement between the parents, or of any order or decree in any action entered pursuant to chapter 26.09 RCW.

(2) A person authorized to act for a patient shall act in good faith to represent the best interests of the patient.

[1991 c 335 § 601.]

70.02.140

Representative of deceased patient.

A personal representative of a deceased patient may exercise all of the deceased patient's rights under this chapter. If there is no personal representative, or upon discharge of the personal representative, a deceased patient's rights under this chapter may be exercised by persons who would have been authorized to make health care decisions for the deceased patient when the patient was living under RCW 7.70.065.

[1991 c 335 § 602.]

70.02.150

Security safeguards.

A health care provider shall effect reasonable safeguards for the security of all health care information it maintains.

Reasonable safeguards shall include affirmative action to delete outdated and incorrect facsimile transmission or other telephone transmittal numbers from computer, facsimile, or other databases. When health care information is transmitted electronically to a recipient who is not regularly transmitted health care information from the health care provider, the health care provider shall verify that the number is accurate prior to transmission.

[2001 c 16 § 2; 1991 c 335 § 701.]

70.02.160

Retention of record.

A health care provider shall maintain a record of existing health care information for at least one year following receipt of an authorization to disclose that health care information under RCW 70.02.040, and during the pendency of a request for examination and copying under RCW 70.02.080 or a request for correction or amendment under RCW 70.02.100.

[1991 c 335 § 702.]

70.02.170

Civil remedies.

(1) A person who has complied with this chapter may maintain an action for the relief provided in this section against a health care provider or facility who has not complied with this chapter.

(2) The court may order the health care provider or other person to comply with this chapter. Such relief may include actual damages, but shall not include consequential or incidental damages. The court shall award reasonable attorneys' fees and all other expenses reasonably incurred to the prevailing party.

(3) Any action under this chapter is barred unless the action is commenced within two years after the cause of action is discovered.

(4) A violation of this chapter shall not be deemed a violation of the consumer protection act, chapter 19.86 RCW.

[1991 c 335 § 801.]

70.02.180

Licensees under chapter 18.225 RCW—Subject to chapter.

Mental health counselors, marriage and family therapists, and social workers licensed under chapter 18.225 RCW are subject to this chapter.

[2001 c 251 § 34.]

NOTES:

Severability—2001 c 251: See RCW 18.225.900.

70.02.200

Disclosure without patient's authorization—Permitted and mandatory disclosures.

(1) In addition to the disclosures authorized by RCW 70.02.050 and 70.02.210, a health care provider or health care facility may disclose health care information, except for information and records related to sexually transmitted diseases and information related to mental health services which are addressed by RCW 70.02.220 through 70.02.260, about a patient without the patient's authorization, to:

(a) Any other health care provider or health care facility reasonably believed to have previously provided health care to the patient, to the extent necessary to provide health care to the patient, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(b) Immediate family members of the patient, including a patient's state registered domestic partner, or any other individual with whom the patient is known to have a close personal relationship, if made in accordance with good medical or other professional practice, unless the patient has instructed the health care provider or health care facility in writing not to make the disclosure;

(c) A health care provider or health care facility who is the successor in interest to the health care provider or health care facility maintaining the health care information;

(d) A person who obtains information for purposes of an audit, if that person agrees in writing to:

(i) Remove or destroy, at the earliest opportunity consistent with the purpose of the audit, information that would enable the patient to be identified; and

(ii) Not to disclose the information further, except to accomplish the audit or report unlawful or improper conduct involving fraud in payment for health care by a health care provider or patient, or other unlawful conduct by the health care provider;

(e) Provide directory information, unless the patient has instructed the health care provider or health care facility not to make the disclosure;

(f) Fire, police, sheriff, or other public authority, that brought, or caused to be brought, the patient to the health care facility or health care provider if the disclosure is limited to the patient's name, residence, sex, age, occupation, condition, diagnosis, estimated or actual discharge date, or extent and location of injuries as determined by a physician, and whether the patient was conscious when admitted;

(g) Federal, state, or local law enforcement authorities and the health care provider, health care facility, or third-party payor believes in good faith that the health care information disclosed constitutes evidence of criminal conduct that occurred on the premises of the health care provider, health care facility, or third-party payor;

(h) Another health care provider, health care facility, or third-party payor for the health care operations of the health care provider, health care facility, or third-party payor that receives the information, if each entity has or had a relationship with the patient who is the subject of the health care information being requested, the health care information pertains to such relationship, and the disclosure is for the purposes described in RCW 70.02.010(17) (a) and (b);

(i) An official of a penal or other custodial institution in which the patient is detained; and

(j) Any law enforcement officer, corrections officer, or guard supplied by a law enforcement or corrections agency who is accompanying a patient pursuant to RCW 10.110.020, only to the extent the disclosure is incidental to the fulfillment of the role of the law enforcement officer, corrections officer, or guard under RCW 10.110.020.

(2) In addition to the disclosures required by RCW 70.02.050 and 70.02.210, a health care provider shall disclose health care information, except for information related to sexually transmitted diseases and information related to mental health services which are addressed by RCW 70.02.220 through 70.02.260, about a patient without the patient's authorization if the disclosure is:

(a) To federal, state, or local law enforcement authorities to the extent the health care provider is required by law;

(b) To federal, state, or local law enforcement authorities, upon receipt of a written or oral request made to a nursing supervisor, administrator, or designated privacy official, in a case in which the patient is being treated or has been treated for a bullet wound, gunshot wound, powder burn, or other injury arising from or caused by the discharge of a firearm, or an injury caused by a knife, an ice pick, or any other sharp or pointed instrument which federal, state, or local law enforcement authorities reasonably believe to have been intentionally inflicted upon a person, or a blunt force injury that federal, state, or local law enforcement authorities reasonably believe resulted from a criminal act, the following information, if known:

(i) The name of the patient;

(ii) The patient's residence;

(iii) The patient's sex;

(iv) The patient's age;

(v) The patient's condition;

(vi) The patient's diagnosis, or extent and location of injuries as determined by a health care provider;

(vii) Whether the patient was conscious when admitted;

(viii) The name of the health care provider making the determination in (b)(v), (vi), and (vii) of this subsection;

(ix) Whether the patient has been transferred to another facility; and

(x) The patient's discharge time and date;

(c) Pursuant to compulsory process in accordance with RCW 70.02.060.

[2015 c 267 § 7; 2014 c 220 § 7; 2013 c 200 § 4.]

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.210

Disclosure without patient's authorization—Research.

(1)(a) A health care provider or health care facility may disclose health care information about a patient without the patient's authorization to the extent a recipient needs to know the information, if the disclosure is for use in a research project that an institutional review board has determined:

(i) Is of sufficient importance to outweigh the intrusion into the privacy of the patient that would result from the disclosure;

(ii) Is impracticable without the use or disclosure of the health care information in individually identifiable form;

(iii) Contains reasonable safeguards to protect the information from redisclosure;

(iv) Contains reasonable safeguards to protect against identifying, directly or indirectly, any patient in any report of the research project; and

(v) Contains procedures to remove or destroy at the earliest opportunity, consistent with the purposes of the project, information that would enable the patient to be identified, unless an institutional review board authorizes retention of identifying information for purposes of another research project.

(b) Disclosure under (a) of this subsection may include health care information and records of treatment programs related to chemical dependency addressed in chapter 70.96A RCW and as authorized by federal law.

(2) In addition to the disclosures required by RCW 70.02.050 and 70.02.200, a health care provider or health care facility shall disclose health care information about a patient without the patient's authorization if:

(a) The disclosure is to county coroners and medical examiners for the investigations of deaths;

(b) The disclosure is to a procurement organization or person to whom a body part passes for the purpose of examination necessary to assure the medical suitability of the body part; or

(c) The disclosure is to a person subject to the jurisdiction of the federal food and drug administration in regards to a food and drug administration-regulated product or activity for which that person has responsibility for quality, safety, or effectiveness of activities.

[2014 c 220 § 8; 2013 c 200 § 5.]

NOTES:

Effective date—2014 c 220 § 8: "Section 8 of 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 immediately [April 4, 2014]." [2014 c 220 § 18.]

Effective date—2013 c 200 § 5: "Section 5 of 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 immediately [May 10, 2013]." [2013 c 200 § 36.]

70.02.220

Sexually transmitted diseases—Permitted and mandatory disclosures.

(1) No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by this section, RCW 70.02.210, or chapter 70.24 RCW.

(2) No person may disclose or be compelled to disclose information and records related to sexually transmitted diseases, except as authorized by this section, RCW 70.02.210, or chapter 70.24 RCW. A person may disclose information related to sexually transmitted diseases about a patient without the patient's authorization, to the extent a recipient needs to know the information, if the disclosure is to:

(a) The subject of the test or the subject's legal representative for health care decisions in accordance with RCW 7.70.065, with the exception of such a representative of a minor fourteen years of age or over and otherwise competent;

(b) The state public health officer as defined in RCW 70.24.017, a local public health officer, or the centers for disease control of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(c) A health facility or health care provider that procures, processes, distributes, or uses: (i) A human body part, tissue, or blood from a deceased person with respect to medical information regarding that person; (ii) semen, including that was provided prior to March 23, 1988, for the purpose of artificial insemination; or (iii) blood specimens;

(d) Any state or local public health officer conducting an investigation pursuant to RCW 70.24.024, so long as the record was obtained by means of court-ordered HIV testing pursuant to RCW 70.24.340 or 70.24.024;

(e) A person allowed access to the record by a court order granted after application showing good cause therefor. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of the order, the court, in determining the extent to which any disclosure of all or any part of the record of any such test is necessary, shall impose appropriate safeguards against unauthorized disclosure. An order authorizing disclosure must: (i) Limit disclosure to those parts of the patient's record deemed essential to fulfill the objective for which the order was granted; (ii) limit disclosure to those persons whose need for information is the basis for the order; and (iii) include any other appropriate measures to keep disclosure to a minimum for the protection of the patient, the physician-patient relationship, and the treatment services;

(f) Persons who, because of their behavioral interaction with the infected individual, have been placed at risk for acquisition of a sexually transmitted disease, as provided in RCW 70.24.022, if the health officer or authorized representative believes that the exposed person was unaware that a risk of disease exposure existed and that the disclosure of the identity of the infected person is necessary;

(g) A law enforcement officer, firefighter, health care provider, health care facility staff person, department of correction's staff person, jail staff person, or other persons as defined by the board of health in rule pursuant to RCW 70.24.340(4), who has requested a test of a person whose bodily fluids he or she has been substantially exposed to, pursuant to RCW 70.24.340(4), if a state or local public health officer performs the test;

(h) Claims management personnel employed by or associated with an insurer, health care service contractor, health maintenance organization, self-funded health plan, state administered health care claims payer, or any other payer of health care claims where such disclosure is to be used solely for the prompt and accurate evaluation and payment of medical or related claims. Information released under this subsection must be confidential and may not be released or available to persons who are not involved in handling or determining medical claims payment; and

(i) A department of social and health services worker, a child placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations

to the court regarding a child, who is less than fourteen years of age, has a sexually transmitted disease, and is in the custody of the department of social and health services or a licensed child placing agency. This information may also be received by a person responsible for providing residential care for such a child when the department of social and health services or a licensed child placing agency determines that it is necessary for the provision of child care services.

(3) No person to whom the results of a test for a sexually transmitted disease have been disclosed pursuant to subsection (2) of this section may disclose the test results to another person except as authorized by that subsection.

(4) The release of sexually transmitted disease information regarding an offender or detained person, except as provided in subsection (2)(d) of this section, is governed as follows:

(a) The sexually transmitted disease status of a department of corrections offender who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by department of corrections health care providers and local public health officers to the department of corrections health care administrator or infection control coordinator of the facility in which the offender is housed. The information made available to the health care administrator or the infection control coordinator under this subsection (4)(a) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. The information may be submitted to transporting officers and receiving facilities, including facilities that are not under the department of corrections' jurisdiction according to the provisions of (d) and (e) of this subsection.

(b) The sexually transmitted disease status of a person detained in a jail who has had a mandatory test conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370 must be made available by the local public health officer to a jail health care administrator or infection control coordinator. The information made available to a health care administrator under this subsection (4)(b) may be used only for disease prevention or control and for protection of the safety and security of the staff, offenders, detainees, and the public. The information may be submitted to transporting officers and receiving facilities according to the provisions of (d) and (e) of this subsection.

(c) Information regarding the sexually transmitted disease status of an offender or detained person is confidential and may be disclosed by a correctional health care administrator or infection control coordinator or local jail health care administrator or infection control coordinator only as necessary for disease prevention or control and for protection of the safety and security of the staff, offenders, and the public. Unauthorized disclosure of this information to any person may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080 or any other penalties as may be prescribed by law.

(d) Notwithstanding the limitations on disclosure contained in (a), (b), and (c) of this subsection, whenever any member of a jail staff or department of corrections staff has been substantially exposed to the bodily fluids of an offender or detained person, then the results of any tests conducted pursuant to RCW 70.24.340(1), 70.24.360, or 70.24.370, must be immediately disclosed to the staff person in accordance with the Washington Administrative Code rules governing employees' occupational exposure to blood-borne pathogens. Disclosure must be accompanied by appropriate counseling for the staff member, including information regarding follow-up testing and treatment. Disclosure must also include notice that subsequent disclosure of the information in violation of this chapter or use of the information to harass or discriminate against the offender or detainee may result in disciplinary action, in addition to the penalties prescribed in RCW 70.24.080, and imposition of other penalties prescribed by law.

(e) The staff member must also be informed whether the offender or detained person had any other communicable disease, as defined in RCW 72.09.251(3), when the staff person was substantially exposed to the offender's or detainee's bodily fluids.

(f) The test results of voluntary and anonymous HIV testing or HIV-related condition, as defined in RCW 70.24.017, may not be disclosed to a staff person except as provided in this section and RCW 70.02.050(1)(e) and 70.24.340(4). A health care administrator or infection control coordinator may provide the staff member with information about how to obtain the offender's or detainee's test results under this section and RCW 70.02.050(1)(e) and 70.24.340(4).

(5) The requirements of this section do not apply to the customary methods utilized for the exchange of medical information among health care providers in order to provide health care services to the patient, nor do they apply within health care facilities where there is a need for access to confidential medical information to fulfill professional duties.

(6) Upon request of the victim, disclosure of test results under this section to victims of sexual offenses under chapter 9A.44 RCW must be made if the result is negative or positive. The county prosecuting attorney shall notify the victim of the right to such disclosure. The disclosure must be accompanied by appropriate counseling, including information regarding follow-up testing.

(7) A person, including a health care facility or health care provider, shall disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease and information and records related to sexually transmitted diseases to federal, state, or local public health authorities, to the extent the health care provider is required by law to report health care information; when needed to determine compliance with state or federal certification or registration rules or laws; or when needed to protect the public health. Any health care information obtained under this subsection is exempt from public inspection and copying pursuant to chapter 42.56 RCW.

[2013 c 200 § 6.]

NOTES:

***Reviser's note:** RCW 70.02.050 was amended by 2014 c 220 § 6, changing subsection (1)(e) to subsection (1)(d).

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.230

Mental health services, confidentiality of records—Permitted disclosures. (*Effective until April 1, 2016.*)

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated mental health professional;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her

designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce *RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating *RCW 9.41.040(2)(a)(ii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the director of regional support networks, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department;

(s) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(t) Consistent with the requirements of the federal health information portability and accountability act, to a licensed mental health professional or a health care professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is providing care to a person, or to whom a person has been referred for evaluation or treatment, to assure coordinated care and treatment of that person. Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information;

(u) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (t) of this subsection;

(v) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(w) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(x) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(y) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department may not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(z)(i) To the secretary of social and health services for either program evaluation or research, or both so long as the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.

[2014 c 220 § 9; 2013 c 200 § 7.]

NOTES:

Reviser's note: *(1) RCW 9.41.040 was amended by 2014 c 111 § 1, changing subsection (2)(a)(ii) to subsection (2)(a)(iii).

**(2) RCW 71.05.280 was amended by 2013 c 289 § 4, substantially modifying the provisions of subsection (3).

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

***(3) RCW 71.05.320 was amended by 2013 c 289 § 5, substantially modifying the provisions of subsection (3)(c). RCW 71.05.320 was subsequently amended by 2015 c 250 § 11, changing subsection (3) to subsection (4).

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.230

Mental health services, confidentiality of records—Permitted disclosures. (*Effective April 1, 2016.*)

(1) Except as provided in this section, RCW 70.02.050, 71.05.445, 70.96A.150, 74.09.295, 70.02.210, 70.02.240, 70.02.250, and 70.02.260, or pursuant to a valid authorization under RCW 70.02.030, the fact of admission to a provider for mental health services and all information and records compiled, obtained, or maintained in the course of providing mental health services to either voluntary or involuntary recipients of services at public or private agencies must be confidential.

(2) Information and records related to mental health services, other than those obtained through treatment under chapter 71.34 RCW, may be disclosed only:

(a) In communications between qualified professional persons to meet the requirements of chapter 71.05 RCW, in the provision of services or appropriate referrals, or in the course of guardianship proceedings if provided to a professional person:

(i) Employed by the facility;

(ii) Who has medical responsibility for the patient's care;

(iii) Who is a designated mental health professional;

(iv) Who is providing services under chapter 71.24 RCW;

(v) Who is employed by a state or local correctional facility where the person is confined or supervised; or

(vi) Who is providing evaluation, treatment, or follow-up services under chapter 10.77 RCW;

(b) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing services to the operator of a facility in which the patient resides or will reside;

(c)(i) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents make such a designation;

(ii) A public or private agency shall release to a person's next of kin, attorney, personal representative, guardian, or conservator, if any:

(A) The information that the person is presently a patient in the facility or that the person is seriously physically ill;

(B) A statement evaluating the mental and physical condition of the patient, and a statement of the probable duration of the patient's confinement, if such information is requested by the next of kin, attorney, personal representative, guardian, or conservator; and

(iii) Other information requested by the next of kin or attorney as may be necessary to decide whether or not proceedings should be instituted to appoint a guardian or conservator;

(d)(i) To the courts as necessary to the administration of chapter 71.05 RCW or to a court ordering an evaluation or treatment under chapter 10.77 RCW solely for the purpose of preventing the entry of any evaluation or treatment order that is inconsistent with any order entered under chapter 71.05 RCW.

(ii) To a court or its designee in which a motion under chapter 10.77 RCW has been made for involuntary medication of a defendant for the purpose of competency restoration.

(iii) Disclosure under this subsection is mandatory for the purpose of the federal health insurance portability and accountability act;

(e)(i) When a mental health professional is requested by a representative of a law enforcement or corrections agency, including a police officer, sheriff, community corrections officer, a municipal attorney, or prosecuting attorney to undertake an investigation or provide treatment under RCW 71.05.150, 10.31.110, or 71.05.153, the mental health professional shall, if requested to do so, advise the representative in writing of the results of the investigation including a statement of reasons for the decision to detain or release the person investigated. The written report must be submitted within seventy-two hours of the completion of the investigation or the request from the law enforcement or corrections representative, whichever occurs later.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(f) To the attorney of the detained person;

(g) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2), 71.05.340(1)(b), and 71.05.335. The prosecutor must be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information must be disclosed only after giving notice to the committed person and the person's counsel;

(h)(i) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of commitment, admission, discharge, or release, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(i)(i) To appropriate corrections and law enforcement agencies all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not so long as the decision was reached in good faith and without gross negligence.

(ii) Disclosure under this subsection is mandatory for the purposes of the health insurance portability and accountability act;

(j) To the persons designated in RCW 71.05.425 for the purposes described in those sections;

(k) Upon the death of a person. The person's next of kin, personal representative, guardian, or conservator, if any, must be notified. Next of kin who are of legal age and competent must be notified under this section in the following order: Spouse, parents, children, brothers and sisters, and other relatives according to the degree of relation. Access to all records and information compiled, obtained, or maintained in the course of providing services to a deceased patient are governed by RCW 70.02.140;

(l) To mark headstones or otherwise memorialize patients interred at state hospital cemeteries. The department of social and health services shall make available the name, date of birth, and date of death of patients buried in state hospital cemeteries fifty years after the death of a patient;

(m) To law enforcement officers and to prosecuting attorneys as are necessary to enforce *RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(i) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(ii) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating *RCW 9.41.040(2)(a)(ii);

(iii) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(n) When a patient would otherwise be subject to the provisions of this section and disclosure is necessary for the protection of the patient or others due to his or her unauthorized disappearance from the facility, and his or her whereabouts is unknown, notice of the disappearance, along with relevant information, may be made to relatives, the department of corrections when the person is under the supervision of the department, and governmental law enforcement agencies designated by the physician or psychiatric advanced registered nurse practitioner in charge of the patient or the professional person in charge of the facility, or his or her professional designee;

(o) Pursuant to lawful order of a court;

(p) To qualified staff members of the department, to the director of behavioral health organizations, to resource management services responsible for serving a patient, or to service providers designated by resource management services as necessary to determine the progress and adequacy of treatment and to determine whether the person should be transferred to a less restrictive or more appropriate treatment modality or facility;

(q) Within the mental health service agency where the patient is receiving treatment, confidential information may be disclosed to persons employed, serving in bona fide training programs, or participating in supervised volunteer programs, at the facility when it is necessary to perform their duties;

(r) Within the department as necessary to coordinate treatment for mental illness, developmental disabilities, alcoholism, or drug abuse of persons who are under the supervision of the department;

(s) To a licensed physician or psychiatric advanced registered nurse practitioner who has determined that the life or health of the person is in danger and that treatment without the information and records related to mental health services could be injurious to the patient's health. Disclosure must be limited to the portions of the records necessary to meet the medical emergency;

(t) Consistent with the requirements of the federal health information portability and accountability act, to a licensed mental health professional or a health care professional licensed under chapter 18.71, 18.71A, 18.57, 18.57A, 18.79, or 18.36A RCW who is providing care to a person, or to whom a person has been referred for evaluation or treatment, to assure coordinated care and treatment of that person. Psychotherapy notes may not be released without authorization of the person who is the subject of the request for release of information;

(u) To administrative and office support staff designated to obtain medical records for those licensed professionals listed in (t) of this subsection;

(v) To a facility that is to receive a person who is involuntarily committed under chapter 71.05 RCW, or upon transfer of the person from one evaluation and treatment facility to another. The release of records under this subsection is limited to the information and records related to mental health services required by law, a record or summary of all somatic treatments, and a discharge summary. The discharge summary may include a statement of the patient's problem, the treatment goals, the type of treatment which has been provided, and recommendation for future treatment, but may not include the patient's complete treatment record;

(w) To the person's counsel or guardian ad litem, without modification, at any time in order to prepare for involuntary commitment or recommitment proceedings, reexaminations, appeals, or other actions relating to detention, admission, commitment, or patient's rights under chapter 71.05 RCW;

(x) To staff members of the protection and advocacy agency or to staff members of a private, nonprofit corporation for the purpose of protecting and advocating the rights of persons with mental disorders or developmental disabilities. Resource management services may limit the release of information to the name, birthdate, and county of residence of the patient, information regarding whether the patient was voluntarily admitted, or involuntarily committed, the date and place of admission, placement, or commitment, the name and address of a guardian of the patient, and the date and place of the guardian's appointment. Any staff member who wishes to obtain additional information must notify the patient's resource management services in writing of the request and of the resource management services' right to object. The staff member shall send the notice by mail to the guardian's address. If the guardian does not object in writing within fifteen days after the notice is mailed, the staff member may obtain the additional information. If the guardian objects in writing within fifteen days after the notice is mailed, the staff member may not obtain the additional information;

(y) To all current treating providers of the patient with prescriptive authority who have written a prescription for the patient within the last twelve months. For purposes of coordinating health care, the department may release without written authorization of the patient, information acquired for billing and collection purposes as described in RCW 70.02.050(1)(d). The department shall notify the patient that billing and collection information has been released to named providers, and provide the substance of the information released and the dates of such release. The department may not release counseling, inpatient psychiatric hospitalization, or drug and alcohol treatment information without a signed written release from the client;

(z)(i) To the secretary of social and health services for either program evaluation or research, or both so long as the secretary adopts rules for the conduct of the evaluation or research, or both. Such rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/ . . . . . ."

(ii) Nothing in this chapter may be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary.

(3) Whenever federal law or federal regulations restrict the release of information contained in the information and records related to mental health services of any patient who receives treatment for chemical dependency, the department may restrict the release of the information as necessary to comply with federal law and regulations.

(4) Civil liability and immunity for the release of information about a particular person who is committed to the department of social and health services under RCW 71.05.280(3) and 71.05.320(3)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by RCW 4.24.550.

(5) The fact of admission to a provider of mental health services, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to chapter 71.05 RCW are not admissible as evidence in any legal proceeding outside that chapter without the written authorization of the person who was the subject of the proceeding except as provided in RCW 70.02.260, in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(3)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial, in a civil commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of a minor, a guardianship or dependency proceeding. The records and

files maintained in any court proceeding pursuant to chapter 71.05 RCW must be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his or her attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

(6)(a) Except as provided in RCW 4.24.550, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this section, for the greater of the following amounts:

(i) One thousand dollars; or

(ii) Three times the amount of actual damages sustained, if any.

(b) It is not a prerequisite to recovery under this subsection that the plaintiff suffered or was threatened with special, as contrasted with general, damages.

(c) Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this section, and may in the same action seek damages as provided in this subsection.

(d) The court may award to the plaintiff, should he or she prevail in any action authorized by this subsection, reasonable attorney fees in addition to those otherwise provided by law.

(e) If an action is brought under this subsection, no action may be brought under RCW 70.02.170.
[2014 c 225 § 71; 2014 c 220 § 9; 2013 c 200 § 7.]

NOTES:

Reviser's note: *(1) RCW 9.41.040 was amended by 2014 c 111 § 1, changing subsection (2)(a)(ii) to subsection (2)(a)(iii).

**(2) RCW 71.05.280 was amended by 2013 c 289 § 4, substantially modifying the provisions of subsection (3).

***(3) RCW 71.05.320 was amended by 2013 c 289 § 5, substantially modifying the provisions of subsection (3)(c). RCW 71.05.320 was subsequently amended by 2015 c 250 § 11, changing subsection (3) to subsection (4).

(4) This section was amended by 2014 c 220 § 9 and by 2014 c 225 § 71, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2014 c 225: See note following RCW 71.24.016.

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.240

Mental health services—Minors—Permitted disclosures.

The fact of admission and all information and records related to mental health services obtained through treatment under chapter 71.34 RCW is confidential, except as authorized in RCW 70.02.050, 70.02.210, 70.02.230, 70.02.250, and 70.02.260. Such confidential information may be disclosed only:

(1) In communications between mental health professionals to meet the requirements of chapter 71.34 RCW, in the provision of services to the minor, or in making appropriate referrals;

(2) In the course of guardianship or dependency proceedings;

(3) To the minor, the minor's parent, and the minor's attorney, subject to RCW 13.50.100;

(4) To the courts as necessary to administer chapter 71.34 RCW;

(5) To law enforcement officers or public health officers as necessary to carry out the responsibilities of their office. However, only the fact and date of admission, and the date of discharge, the name and address of the treatment provider, if any, and the last known address must be disclosed upon request;

(6) To law enforcement officers, public health officers, relatives, and other governmental law enforcement agencies, if a minor has escaped from custody, disappeared from an evaluation and treatment facility, violated conditions of a less restrictive treatment order, or failed to return from an authorized leave, and then only such information as may be necessary to provide for public safety or to assist in the apprehension of the minor. The officers are obligated to keep the information confidential in accordance with this chapter;

(7) To the secretary of social and health services for assistance in data collection and program evaluation or research so long as the secretary adopts rules for the conduct of such evaluation and research. The rules must include, but need not be limited to, the requirement that all evaluators and researchers sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I, ..., agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding minors who have received services in a manner such that the minor is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under state law.

/s/ . . . . . ";

(8) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The mental health service agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(9) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure must be made by the professional person in charge of the public or private agency or his or her designee and must include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only any other information that is pertinent to the threat or harassment. The agency or its employees are not civilly liable for the decision to disclose or not, so long as the decision was reached in good faith and without gross negligence;

(10) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(11) Upon the death of a minor, to the minor's next of kin;

(12) To a facility in which the minor resides or will reside;

(13) To law enforcement officers and to prosecuting attorneys as are necessary to enforce *RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), must be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court rule and to a jury or judge, if a jury is waived, that presides over any trial at which the person is charged with violating *RCW 9.41.040(2)(a)(ii);

(c) Disclosure under this subsection is mandatory for the purposes of the federal health insurance portability and accountability act;

(14) This section may not be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards, including standards to assure maintenance of confidentiality, set forth by the secretary of the department of social and health services. The fact of admission and all information obtained pursuant to chapter 71.34 RCW are not admissible as evidence in any legal proceeding outside chapter 71.34 RCW, except guardianship or dependency, without the written consent of the minor or the minor's parent;

(15) For the purpose of a correctional facility participating in the postinstitutional medical assistance system supporting the expedited medical determinations and medical suspensions as provided in RCW 74.09.555 and 74.09.295;

(16) Pursuant to a lawful order of a court.

[2013 c 200 § 8.]

NOTES:

***Reviser's note:** RCW 9.41.040 was amended by 2014 c 111 § 1, changing subsection (2)(a)(ii) to subsection (2)(a)(iii).

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.250

Mental health services—Department of corrections. (*Effective until April 1, 2016.*)

(1) Information and records related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW must be released, upon request, by a mental health service agency to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purpose of completing presentence investigations, supervision of an incarcerated person, planning for and provision of supervision of a person, or assessment of a person's risk to the community. The request must be in writing and may not require the consent of the subject of the records.

(2) The information to be released to the department of corrections must include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (1) of this section.

(3) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific regional support networks and mental health service agencies that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

(4) The department and the department of corrections, in consultation with regional support networks, mental health service agencies as defined in RCW 70.02.010, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules must:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(5) The information received by the department of corrections under this section must remain confidential and subject to the limitations on disclosure outlined in chapter 71.34 RCW, except as provided in RCW 72.09.585.

(6) No mental health service agency or individual employed by a mental health service agency may be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

[2013 c 200 § 9.]

NOTES:

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.250

Mental health services—Department of corrections. (*Effective April 1, 2016.*)

(1) Information and records related to mental health services delivered to a person subject to chapter 9.94A or 9.95 RCW must be released, upon request, by a mental health service agency to department of corrections personnel for whom the information is necessary to carry out the responsibilities of their office. The information must be provided only for the purpose of completing presentence investigations, supervision of an incarcerated person, planning for and provision of supervision of a person, or assessment of a person's risk to the community. The request must be in writing and may not require the consent of the subject of the records.

(2) The information to be released to the department of corrections must include all relevant records and reports, as defined by rule, necessary for the department of corrections to carry out its duties, including those records and reports identified in subsection (1) of this section.

(3) The department shall, subject to available resources, electronically, or by the most cost-effective means available, provide the department of corrections with the names, last dates of services, and addresses of specific behavioral health organizations and mental health service agencies that delivered mental health services to a person subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between the departments.

(4) The department and the department of corrections, in consultation with behavioral health organizations, mental health service agencies as defined in RCW 70.02.010, mental health consumers, and advocates for persons with mental illness, shall adopt rules to implement the provisions of this section related to the type and scope of information to be released. These rules must:

(a) Enhance and facilitate the ability of the department of corrections to carry out its responsibility of planning and ensuring community protection with respect to persons subject to sentencing under chapter 9.94A or 9.95 RCW, including accessing and releasing or disclosing information of persons who received mental health services as a minor; and

(b) Establish requirements for the notification of persons under the supervision of the department of corrections regarding the provisions of this section.

(5) The information received by the department of corrections under this section must remain confidential and subject to the limitations on disclosure outlined in chapter 71.34 RCW, except as provided in RCW 72.09.585.

(6) No mental health service agency or individual employed by a mental health service agency may be held responsible for information released to or used by the department of corrections under the provisions of this section or rules adopted under this section.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

[2014 c 225 § 72; 2013 c 200 § 9.]

NOTES:

Effective date—2014 c 225: See note following RCW 71.24.016.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.260

Mental health services—Requests for information and records.

(1)(a) A mental health service agency shall release to the persons authorized under subsection (2) of this section, upon request:

(i) The fact, place, and date of an involuntary commitment, the fact and date of discharge or release, and the last known address of a person who has been committed under chapter 71.05 RCW.

(ii) Information and records related to mental health services, in the format determined under subsection (9) of this section, concerning a person who:

(A) Is currently committed to the custody or supervision of the department of corrections or the indeterminate sentence review board under chapter 9.94A or 9.95 RCW;

(B) Has been convicted or found not guilty by reason of insanity of a serious violent offense; or

(C) Was charged with a serious violent offense and the charges were dismissed under RCW 10.77.086.

(b) Legal counsel may release such information to the persons authorized under subsection (2) of this section on behalf of the mental health service agency, so long as nothing in this subsection requires the disclosure of attorney work product or attorney-client privileged information.

(2) The information subject to release under subsection (1) of this section must be released to law enforcement officers, personnel of a county or city jail, designated mental health professionals, public health officers, therapeutic court personnel as defined in RCW 71.05.020, or personnel of the department of corrections, including the indeterminate sentence review board and personnel assigned to perform board-related duties, when such information is requested during the course of business and for the purpose of carrying out the responsibilities of the requesting person's office. No mental health service agency or person employed by a mental health service agency, or its legal counsel, may be liable for information released to or used under the provisions of this section or rules adopted under this section except under RCW 71.05.680.

(3) A person who requests information under subsection (1)(a)(ii) of this section must comply with the following restrictions:

(a) Information must be requested only for the purposes permitted by this subsection and for the purpose of carrying out the responsibilities of the requesting person's office. Appropriate purposes for requesting information under this section include:

(i) Completing presentence investigations or risk assessment reports;

(ii) Assessing a person's risk to the community;

(iii) Assessing a person's risk of harm to self or others when confined in a city or county jail;

(iv) Planning for and provision of supervision of an offender, including decisions related to sanctions for violations of conditions of community supervision; and

(v) Responding to an offender's failure to report for department of corrections supervision;

(b) Information may not be requested under this section unless the requesting person has reasonable suspicion that the individual who is the subject of the information:

(i) Has engaged in activity indicating that a crime or a violation of community custody or parole has been committed or, based upon his or her current or recent past behavior, is likely to be committed in the near future; or

(ii) Is exhibiting signs of a deterioration in mental functioning which may make the individual appropriate for civil commitment under chapter 71.05 RCW; and

(c) Any information received under this section must be held confidential and subject to the limitations on disclosure outlined in this chapter, except:

(i) The information may be shared with other persons who have the right to request similar information under subsection (2) of this section, solely for the purpose of coordinating activities related to the individual who is the subject of the information in a manner consistent with the official responsibilities of the persons involved;

(ii) The information may be shared with a prosecuting attorney acting in an advisory capacity for a person who receives information under this section. A prosecuting attorney under this subsection is subject to the same restrictions and confidentiality limitations as the person who requested the information; and

(iii) As provided in RCW 72.09.585.

(4) A request for information and records related to mental health services under this section does not require the consent of the subject of the records. The request must be provided in writing, except to the extent authorized in subsection (5) of this section. A written request may include requests made by email or facsimile so long as the requesting person is clearly identified. The request must specify the information being requested.

(5) In the event of an emergency situation that poses a significant risk to the public or the offender, a mental health service agency, or its legal counsel, shall release information related to mental health services delivered to the offender and, if known, information regarding where the offender is likely to be found to the department of corrections or law enforcement upon request. The initial request may be written or oral. All oral requests must be subsequently confirmed in writing. Information released in response to an oral request is limited to a statement as to whether the offender is or is not being treated by the mental health service agency and the address or information about the location or whereabouts of the offender.

(6) Disclosure under this section to state or local law enforcement authorities is mandatory for the purposes of the federal health insurance portability and accountability act.

(7) Whenever federal law or federal regulations restrict the release of information contained in the treatment records of any patient who receives treatment for alcoholism or drug dependency, the release of the information may be restricted as necessary to comply with federal law and regulations.

(8) This section does not modify the terms and conditions of disclosure of information related to sexually transmitted diseases under this chapter.

(9) In collaboration with interested organizations, the department shall develop a standard form for requests for information related to mental health services made under this section and a standard format for information provided in response to the requests. Consistent with the goals of the health information privacy provisions of the federal health insurance portability and accountability act, in developing the standard form for responsive information, the department shall design the form in such a way that the information disclosed is limited to the minimum necessary to serve the purpose for which the information is requested.

[2013 c 200 § 10.]

NOTES:

Effective date—2013 c 200: See note following RCW 70.02.010.

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

70.02.270

Health care information—Use or disclosure prohibited.

(1) No person who receives health care information for health care education, or to provide planning, quality assurance, peer review, or administrative, legal, financial, or actuarial services, or other health care operations for or on behalf of a health care provider or health care facility, may use or disclose any health care information received from the health care provider or health care facility in any manner that would violate the requirements of this chapter if performed by the health care provider or health care facility.

(2) A health care provider or health care facility that has a contractual relationship with a person to provide services described under subsection (1) of this section may terminate the contractual relationship with the person if the health care provider or health care facility learns that the person has engaged in a pattern of activity that violates the person's duties under subsection (1) of this section, unless the person took reasonable steps to correct the breach of confidentiality or has discontinued the violating activity.

[2014 c 220 § 10; 2013 c 200 § 11.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.280

Health care providers and facilities—Prohibited actions.

A health care provider, health care facility, and their assistants, employees, agents, and contractors may not:

(1) Use or disclose health care information for marketing or fund-raising purposes, unless permitted by federal law; or

(2) Sell health care information to a third party, except:

(a) For purposes of treatment or payment;

(b) For purposes of sale, transfer, merger, or consolidation of a business;

(c) For purposes of remuneration to a third party for services;

(d) As disclosures are required by law;

(e) For purposes of providing access to or accounting of disclosures to an individual;

(f) For public health purposes;

(g) For research;

(h) With an individual's authorization;

(i) Where a reasonable cost-based fee is paid to prepare and transmit health information, where authority to disclose the information is provided in this chapter; or

(j) In a format that is deidentified and aggregated.

[2014 c 220 § 11; 2013 c 200 § 12.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.290

Agency rule-making requirements—Use/destruction of health care information by certain state and local agencies—Unauthorized disclosure—Notice—Rules/policies available on agency's web site.

(1) All state or local agencies obtaining patient health care information pursuant to RCW 70.02.050 and 70.02.200 through 70.02.240 that are not health care facilities or providers shall adopt rules establishing their record acquisition, retention, destruction, and security policies that are consistent with this chapter.

(2) State and local agencies that are not health care facilities or providers that have not requested health care information and are not authorized to receive this information under this chapter:

(a) Must not use or disclose this information unless permitted under this chapter; and

(b) Must destroy the information in accordance with the policy developed under subsection (1) of this section or return the information to the entity that provided the information to the state or local agency if the entity is a health care facility or provider and subject to this chapter.

(3) A person who has health care information disclosed in violation of subsection (2)(a) of this section, must be informed of the disclosure by the state or local agency improperly making the disclosure. State and local agencies that are not health care facilities or providers must develop a policy to establish a reasonable notification period and what information must be included in the notice, including whether the name of the entity that originally provided the information to the agency must be included.

(4) Rules or policies adopted under this section must be available through each agency's web site.

[2014 c 220 § 1; 2013 c 200 § 13.]

NOTES:

Effective date—2014 c 220: "Sections 1 through 7 and 9 through *16 of this act take effect July 1, 2014." [2014 c 220 § 17.]

***Reviser's note:** 2014 c 220 § 16 was vetoed.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.300

Sexually transmitted diseases—Required statement upon disclosure.

Whenever disclosure is made of information and records related to sexually transmitted diseases pursuant to this chapter, except for RCW 70.02.050(1)(a) and 70.02.220 (2) (a) and (b) and (7), it must be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written authorization of the person to whom it pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure must be accompanied or followed by such a notice within ten days.

[2013 c 200 § 14.]

NOTES:

Effective date—2013 c 200: See note following RCW 70.02.010.

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

70.02.310

Mental health services—Information and records.

(1) Resource management services shall establish procedures to provide reasonable and timely access to information and records related to mental health services for an individual. However, access may not be denied at any time to records of all medications and somatic treatments received by the person.

(2) Following discharge, a person who has received mental health services has a right to a complete record of all medications and somatic treatments prescribed during evaluation, admission, or commitment and to a copy of the discharge summary prepared at the time of his or her discharge. A reasonable and uniform charge for reproduction may be assessed.

(3) Information and records related to mental health services may be modified prior to inspection to protect the confidentiality of other patients or the names of any other persons referred to in the record who gave information on the condition that his or her identity remain confidential. Entire documents may not be withheld to protect such confidentiality.

(4) At the time of discharge resource management services shall inform all persons who have received mental health services of their rights as provided in this chapter and RCW 71.05.620.

[2014 c 220 § 12; 2013 c 200 § 15.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.320

Mental health services—Minors—Prompt entry in record upon disclosure.

When disclosure of information and records related to mental services pertaining to a minor, as defined in RCW 71.34.020, is made, the date and circumstances under which the disclosure was made, the name or names of the persons or agencies to whom such disclosure was made and their relationship if any, to the minor, and the information disclosed must be entered promptly in the minor's clinical record.

[2013 c 200 § 16.]

NOTES:

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.330

Obtaining confidential records under false pretenses—Penalty.

Any person who requests or obtains confidential information and records related to mental health services pursuant to this chapter under false pretenses is guilty of a gross misdemeanor.

[2013 c 200 § 17.]

NOTES:

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.340

Disclosure of information and records related to mental health services—Agency rule-making authority.

The department of social and health services shall adopt rules related to the disclosure of information and records related to mental health services in this chapter.

[2014 c 220 § 13; 2013 c 200 § 18.]

NOTES:

Effective date—2014 c 220: See note following RCW 70.02.290.

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.350

Department of social and health services—Release of information to protect the public.

In addition to any other information required to be released under this chapter, the department of social and health services is authorized, pursuant to RCW 4.24.550, to release relevant information that is necessary to protect the public, concerning a specific person committed under RCW 71.05.280(3) or 71.05.320(3)(c) following dismissal of a sex offense as defined in RCW 9.94A.030.

[2013 c 200 § 19.]

NOTES:

Reviser's note: *(1) RCW 71.05.280 was amended by 2013 c 289 § 4, substantially modifying the provisions of subsection (3).

**(2) RCW 71.05.320 was amended by 2013 c 289 § 5, substantially modifying the provisions of subsection (3)(c). RCW 71.05.320 was subsequently amended by 2015 c 250 § 11, changing subsection (3) to subsection (4).

Effective date—2013 c 200: See note following RCW 70.02.010.

70.02.900

Conflicting laws.

(1) This chapter does not restrict a health care provider, a third-party payor, or an insurer regulated under Title 48 RCW from complying with obligations imposed by federal or state health care payment programs or federal or state law.

(2) This chapter does not modify the terms and conditions of disclosure under Title 51 RCW and chapters 13.50, 26.09, 70.24, 70.96A, and 74.09 RCW and rules adopted under these provisions.

[2013 c 200 § 20; 2011 c 305 § 10; 2000 c 5 § 4; 1991 c 335 § 901.]

NOTES:

Effective date—2013 c 200: See note following RCW 70.02.010.

Findings—2011 c 305: See note following RCW 74.09.295.

Intent—Purpose—2000 c 5: See RCW 48.43.500.

Application—Short title—Captions not law—Construction—Severability—Application to contracts—Effective dates—2000 c 5: See notes following RCW 48.43.500.

Chapter 70.02 RCW

MEDICAL RECORDS — HEALTH CARE INFORMATION ACCESS AND DISCLOSURE

70.02.901

Application and construction—1991 c 335.

This act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this act among states enacting it.
[1991 c 335 § 903.]

70.02.902

Short title.

This act may be cited as the uniform health care information act.
[1991 c 335 § 904.]

70.02.903

Severability—1991 c 335.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
[1991 c 335 § 905.]

70.02.904

Captions not law—1991 c 335.

As used in this act, captions constitute no part of the law.
[1991 c 335 § 906.]

70.02.905

Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and

wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.

Chapter 70.115 RCW
DRUG INJECTION DEVICES

Sections

70.115.050 Retail sale of hypodermic syringes, needles—Duty of retailer.
70.115.060 Retailers not required to sell hypodermic syringes.

70.115.050
Retail sale of hypodermic syringes, needles—Duty of retailer.

On the sale at retail of any hypodermic syringe, hypodermic needle, or any device adapted for the use of drugs by injection, the retailer shall satisfy himself or herself that the device will be used for the legal use intended.

[1981 c 147 § 5.]

70.115.060
Retailers not required to sell hypodermic syringes.

Nothing contained in chapter 213, Laws of 2002 shall be construed to require a retailer to sell hypodermic needles or syringes to any person.

[2002 c 213 § 3.]

Chapter 70.225 RCW
PRESCRIPTION MONITORING PROGRAM

Sections

70.225.010	Definitions.
70.225.020	Prescription monitoring program—Subject to funding—Duties of dispensers.
70.225.025	Rules.
70.225.030	Enhancement of program—Feasibility study.
70.225.040	Confidentiality of prescription information—Procedures—Immunity when acting in good faith.
70.225.050	Department may contract for operation of program.
70.225.060	Violations—Penalties—Disclosure exemption for health care providers.
70.225.070	Requirements for test sites in the prescription monitoring program.
70.225.080	Access to data in the qualifying laboratory.
70.225.900	Severability—Subheadings not law—2007 c 259.

70.225.010
Definitions.

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

(1) "Controlled substance" has the meaning provided in RCW 69.50.101.

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

(3) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(4) "Dispenser" means a practitioner or pharmacy that delivers a Schedule II, III, IV, or V controlled substance to the ultimate user, but does not include:

(a) A practitioner or other authorized person who administers, as defined in RCW 69.41.010, a controlled substance; or

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance.

[2007 c 259 § 42.]

70.225.020
Prescription monitoring program—Subject to funding—Duties of dispensers.

(1) The department shall establish and maintain a prescription monitoring program to monitor the prescribing and dispensing of all Schedules II, III, IV, and V controlled substances and any additional drugs identified by the pharmacy quality assurance commission as demonstrating a potential for abuse by all professionals licensed to prescribe or dispense such substances in this state. The program shall be designed to improve health care quality and effectiveness by reducing abuse of controlled substances, reducing duplicative prescribing and overprescribing of controlled substances, and improving controlled substance prescribing practices with the intent of eventually establishing an electronic database available in real time to dispensers and prescribers of controlled substances. As much as possible, the department should establish a common database with other states. This program's management and operations shall be funded entirely from the funds in the account established under RCW 74.09.215. Nothing in this chapter prohibits voluntary contributions

from private individuals and business entities as defined under Title 23, 23B, 24, or 25 RCW to assist in funding the prescription monitoring program.

(2) Except as provided in subsection (4) of this section, each dispenser shall submit to the department by electronic means information regarding each prescription dispensed for a drug included under subsection (1) of this section. Drug prescriptions for more than one day use should be reported. The information submitted for each prescription shall include, but not be limited to:

(a) Patient identifier;

(b) Drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(3) Each dispenser shall submit the information in accordance with transmission methods established by the department.

(4) The data submission requirements of subsections (1) through (3) of this section do not apply to:

(a) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW; or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses;

(b) Pharmacies operated by the department of corrections for the purpose of providing medications to offenders in department of corrections institutions who are receiving pharmaceutical services from a department of corrections pharmacy, except that the department of corrections must submit data related to each offender's current prescriptions for controlled substances upon the offender's release from a department of corrections institution; or

(c) Veterinarians licensed under chapter 18.92 RCW. The department, in collaboration with the veterinary board of governors, shall establish alternative data reporting requirements for veterinarians that allow veterinarians to report:

(i) By either electronic or nonelectronic methods;

(ii) Only those data elements that are relevant to veterinary practices and necessary to accomplish the public protection goals of this chapter; and

(iii) No more frequently than once every three months and no less frequently than once every six months.

(5) The department shall continue to seek federal grants to support the activities described in chapter 259, Laws of 2007. The department may not require a practitioner or a pharmacist to pay a fee or tax specifically dedicated to the operation and management of the system.

[2013 c 36 § 2; 2013 c 19 § 126; 2012 c 192 § 1; 2007 c 259 § 43.]

NOTES:

Reviser's note: This section was amended by 2013 c 19 § 126 and by 2013 c 36 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Findings—2013 c 36: "The legislature finds that:

(1) The prescription monitoring program contributes to patient safety and reduction in drug errors for all patients, including medicaid beneficiaries in Washington state. Further, the prescription monitoring program provides the critical function of reducing costs borne by medicaid and provides for the detection of fraud in the medicaid system.

(2) Because of the nexus between medicaid, medicaid fraud, and cost reductions, the funding for the operations and management of the prescription monitoring program should be funded entirely from the medicaid fraud penalty account under RCW 74.09.215, with the option of funding the prescription monitoring program through voluntary contributions from private individuals and corporations as defined under Title 23, 23B, 24, or 25 RCW." [2013 c 36 § 1.]

Chapter 70.225 RCW
PRESCRIPTION MONITORING PROGRAM

70.225.025
Rules.

The department shall adopt rules to implement this chapter.
[2007 c 259 § 47.]

70.225.030
Enhancement of program—Feasibility study.

To the extent that funding is provided for such purpose through federal or private grants, or is appropriated by the legislature, the health care authority shall study the feasibility of enhancing the prescription monitoring program established in RCW 70.225.020 in order to improve the quality of state purchased health services by reducing legend drug abuse, reducing duplicative and overprescribing of legend drugs, and improving legend drug prescribing practices. The study shall address the steps necessary to expand the program to allow those who prescribe or dispense prescription drugs to perform a web-based inquiry and obtain real time information regarding the legend drug utilization history of persons for whom they are providing medical or pharmaceutical care when such persons are receiving health services through state purchased health care programs.
[2007 c 259 § 44.]

70.225.040
Confidentiality of prescription information—Procedures—Immunity when acting in good faith.

(1) Prescription information submitted to the department must be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department must maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order;

(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW; and

(j) Personnel of a test site that meet the standards under RCW 70.225.070 pursuant to an agreement between the test site and a person identified in (a) of this subsection to provide assistance in determining which medications are being used by an identified patient who is under the care of that person.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

[2015 c 259 § 1; 2015 c 49 § 1; 2011 1st sp.s. c 15 § 87; 2007 c 259 § 45.]

NOTES:

Reviser's note: This section was amended by 2015 c 49 § 1 and by 2015 c 259 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Findings—Intent—Report—Agency transfer—References to head of health care authority—Draft legislation—2011 1st sp.s. c 15: See notes following RCW 74.09.010.

70.225.050
Department may contract for operation of program.

The department may contract with another agency of this state or with a private vendor, as necessary, to ensure the effective operation of the prescription monitoring program. Any contractor is bound to comply with the provisions regarding confidentiality of prescription information in RCW 70.225.040 and is subject to the penalties specified in RCW 70.225.060 for unlawful acts.

[2007 c 259 § 46.]

70.225.060
Violations—Penalties—Disclosure exemption for health care providers.

(1) A dispenser who knowingly fails to submit prescription monitoring information to the department as required by this chapter or knowingly submits incorrect prescription information is subject to disciplinary action under chapter 18.130 RCW.

(2) A person authorized to have prescription monitoring information under this chapter who knowingly discloses such information in violation of this chapter is subject to civil penalty.

(3) A person authorized to have prescription monitoring information under this chapter who uses such information in a manner or for a purpose in violation of this chapter is subject to civil penalty.

(4) In accordance with chapter 70.02 RCW and federal health care information privacy requirements, any physician or pharmacist authorized to access a patient's prescription monitoring may discuss or release that information to other health care providers involved with the patient in order to provide safe and appropriate care coordination.

Chapter 70.225 RCW
PRESCRIPTION MONITORING PROGRAM

[2007 c 259 § 48.]

70.225.070
Requirements for test sites in the prescription monitoring program.

(1) Test sites that may receive access to data in the prescription monitoring program under RCW 70.225.040 must be:

(a) Licensed by the department as a test site under chapter 70.42 RCW; and

(b) Certified as a drug testing laboratory by the United States department of health and human services, substance abuse and mental health services administration.

(2) Test sites may not:

(a) Charge a fee for accessing the prescription monitoring program;

(b) Store data accessed from the prescription drug monitoring program in any form, including, but not limited to, hard copies, electronic copies, or web/digital based copies of any kind. Such data may be used only to transmit to those entities listed in RCW 70.255.040(3)(a).

[2015 c 259 § 2.]

70.225.080
Access to data in the qualifying laboratory.

(1) Access to data in the qualifying laboratory must be under the supervision of the responsible person as designated by the United States department of health and human services, substance abuse and mental health services administration certification program.

(2) Such data cannot be gathered, shared, sold, or used in any manner other than as designated under RCW 70.255.040, RCW 70.225.070, or this section.

[2015 c 259 § 3.]

70.225.900
Severability—Subheadings not law—2007 c 259.

See notes following RCW 41.05.033.

Chapter 70.245 RCW

THE WASHINGTON DEATH WITH DIGNITY ACT

Sections

70.245.010	Definitions.
70.245.020	Written request for medication.
70.245.030	Form of the written request.
70.245.040	Attending physician responsibilities.
70.245.050	Consulting physician confirmation.
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70.245.903	Effective dates—2009 c 1 (Initiative Measure No. 1000).
70.245.904	Captions, part headings, and subpart headings not law—2009 c 1 (Initiative Measure No. 1000).

70.245.010
Definitions.

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

(1) "Adult" means an individual who is eighteen years of age or older.

(2) "Attending physician" means the physician who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.

(3) "Competent" means that, in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating if those persons are available.

(4) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.

(5) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is competent and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

(6) "Health care provider" means a person licensed, certified, or otherwise authorized or permitted by law to administer health care or dispense medication in the ordinary course of business or practice of a profession, and includes a health care facility.

(7) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:

(a) His or her medical diagnosis;

(b) His or her prognosis;

(c) The potential risks associated with taking the medication to be prescribed;

(d) The probable result of taking the medication to be prescribed; and

(e) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control.

(8) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(9) "Patient" means a person who is under the care of a physician.

(10) "Physician" means a doctor of medicine or osteopathy licensed to practice medicine in the state of Washington.

(11) "Qualified patient" means a competent adult who is a resident of Washington state and has satisfied the requirements of this chapter in order to obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner.

(12) "Self-administer" means a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner.

(13) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

[2009 c 1 § 1 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.020
Written request for medication.

(1) An adult who is competent, is a resident of Washington state, and has been determined by the attending physician and consulting physician to be suffering from a terminal disease, and who has voluntarily expressed his or her wish to die, may make a written request for medication that the patient may self-administer to end his or her life in a humane and dignified manner in accordance with this chapter.

(2) A person does not qualify under this chapter solely because of age or disability.

[2009 c 1 § 2 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.030
Form of the written request.

Chapter 70.245 RCW

THE WASHINGTON DEATH WITH DIGNITY ACT

(1) A valid request for medication under this chapter shall be in substantially the form described in RCW 70.245.220, signed and dated by the patient and witnessed by at least two individuals who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is competent, acting voluntarily, and is not being coerced to sign the request.

(2) One of the witnesses shall be a person who is not:

(a) A relative of the patient by blood, marriage, or adoption;

(b) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified patient upon death under any will or by operation of law; or

(c) An owner, operator, or employee of a health care facility where the qualified patient is receiving medical treatment or is a resident.

(3) The patient's attending physician at the time the request is signed shall not be a witness.

(4) If the patient is a patient in a long-term care facility at the time the written request is made, one of the witnesses shall be an individual designated by the facility and having the qualifications specified by the department of health by rule.

[2009 c 1 § 3 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.040

Attending physician responsibilities.

(1) The attending physician shall:

(a) Make the initial determination of whether a patient has a terminal disease, is competent, and has made the request voluntarily;

(b) Request that the patient demonstrate Washington state residency under RCW 70.245.130;

(c) To ensure that the patient is making an informed decision, inform the patient of:

(i) His or her medical diagnosis;

(ii) His or her prognosis;

(iii) The potential risks associated with taking the medication to be prescribed;

(iv) The probable result of taking the medication to be prescribed; and

(v) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control;

(d) Refer the patient to a consulting physician for medical confirmation of the diagnosis, and for a determination that the patient is competent and acting voluntarily;

(e) Refer the patient for counseling if appropriate under RCW 70.245.060;

(f) Recommend that the patient notify next of kin;

(g) Counsel the patient about the importance of having another person present when the patient takes the medication prescribed under this chapter and of not taking the medication in a public place;

(h) Inform the patient that he or she has an opportunity to rescind the request at any time and in any manner, and offer the patient an opportunity to rescind at the end of the fifteen-day waiting period under RCW 70.245.090;

(i) Verify, immediately before writing the prescription for medication under this chapter, that the patient is making an informed decision;

(j) Fulfill the medical record documentation requirements of RCW 70.245.120;

(k) Ensure that all appropriate steps are carried out in accordance with this chapter before writing a prescription for medication to enable a qualified patient to end his or her life in a humane and dignified manner; and

(l)(i) Dispense medications directly, including ancillary medications intended to facilitate the desired effect to minimize the patient's discomfort, if the attending physician is authorized under statute and rule to dispense and has a current drug enforcement administration certificate; or

(ii) With the patient's written consent:

(A) Contact a pharmacist and inform the pharmacist of the prescription; and

(B) Deliver the written prescription personally, by mail or facsimile to the pharmacist, who will dispense the medications directly to either the patient, the attending physician, or an expressly identified agent of the patient. Medications dispensed pursuant to this subsection shall not be dispensed by mail or other form of courier.

(2) The attending physician may sign the patient's death certificate which shall list the underlying terminal disease as the cause of death.

[2009 c 1 § 4 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.050
Consulting physician confirmation.

Before a patient is qualified under this chapter, a consulting physician shall examine the patient and his or her relevant medical records and confirm, in writing, the attending physician's diagnosis that the patient is suffering from a terminal disease, and verify that the patient is competent, is acting voluntarily, and has made an informed decision.

[2009 c 1 § 5 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.060
Counseling referral.

If, in the opinion of the attending physician or the consulting physician, a patient may be suffering from a psychiatric or psychological disorder or depression causing impaired judgment, either physician shall refer the patient for counseling. Medication to end a patient's life in a humane and dignified manner shall not be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

[2009 c 1 § 6 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.070
Informed decision.

Chapter 70.245 RCW

THE WASHINGTON DEATH WITH DIGNITY ACT

A person shall not receive a prescription for medication to end his or her life in a humane and dignified manner unless he or she has made an informed decision. Immediately before writing a prescription for medication under this chapter, the attending physician shall verify that the qualified patient is making an informed decision.
[2009 c 1 § 7 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.080
Notification of next of kin.

The attending physician shall recommend that the patient notify the next of kin of his or her request for medication under this chapter. A patient who declines or is unable to notify next of kin shall not have his or her request denied for that reason.
[2009 c 1 § 8 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.090
Written and oral requests.

To receive a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, a qualified patient shall have made an oral request and a written request, and reiterate the oral request to his or her attending physician at least fifteen days after making the initial oral request. At the time the qualified patient makes his or her second oral request, the attending physician shall offer the qualified patient an opportunity to rescind the request.
[2009 c 1 § 9 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.100
Right to rescind request.

A patient may rescind his or her request at any time and in any manner without regard to his or her mental state. No prescription for medication under this chapter may be written without the attending physician offering the qualified patient an opportunity to rescind the request.
[2009 c 1 § 10 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.110
Waiting periods.

(1) At least fifteen days shall elapse between the patient's initial oral request and the writing of a prescription under this chapter.

(2) At least forty-eight hours shall elapse between the date the patient signs the written request and the writing of a prescription under this chapter.

[2009 c 1 § 11 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.120
Medical record documentation requirements.

The following shall be documented or filed in the patient's medical record:

(1) All oral requests by a patient for medication to end his or her life in a humane and dignified manner;

(2) All written requests by a patient for medication to end his or her life in a humane and dignified manner;

(3) The attending physician's diagnosis and prognosis, and determination that the patient is competent, is acting voluntarily, and has made an informed decision;

(4) The consulting physician's diagnosis and prognosis, and verification that the patient is competent, is acting voluntarily, and has made an informed decision;

(5) A report of the outcome and determinations made during counseling, if performed;

(6) The attending physician's offer to the patient to rescind his or her request at the time of the patient's second oral request under RCW 70.245.090; and

(7) A note by the attending physician indicating that all requirements under this chapter have been met and indicating the steps taken to carry out the request, including a notation of the medication prescribed.

[2009 c 1 § 12 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.130
Residency requirement.

Only requests made by Washington state residents under this chapter may be granted. Factors demonstrating Washington state residency include but are not limited to:

(1) Possession of a Washington state driver's license;

(2) Registration to vote in Washington state; or

(3) Evidence that the person owns or leases property in Washington state.

[2009 c 1 § 13 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.140
Disposal of unused medications.

Any medication dispensed under this chapter that was not self-administered shall be disposed of by lawful means.

[2009 c 1 § 14 (Initiative Measure No. 1000, approved November 4, 2008).]

Chapter 70.245 RCW

THE WASHINGTON DEATH WITH DIGNITY ACT

70.245.150

Reporting of information to the department of health—Adoption of rules—Information collected not a public record—Annual statistical report.

(1)(a) The department of health shall annually review all records maintained under this chapter.

(b) The department of health shall require any health care provider upon writing a prescription or dispensing medication under this chapter to file a copy of the dispensing record and such other administratively required documentation with the department. All administratively required documentation shall be mailed or otherwise transmitted as allowed by department of health rule to the department no later than thirty calendar days after the writing of a prescription and dispensing of medication under this chapter, except that all documents required to be filed with the department by the prescribing physician after the death of the patient shall be mailed no later than thirty calendar days after the date of death of the patient. In the event that anyone required under this chapter to report information to the department of health provides an inadequate or incomplete report, the department shall contact the person to request a complete report.

(2) The department of health shall adopt rules to facilitate the collection of information regarding compliance with this chapter. Except as otherwise required by law, the information collected is not a public record and may not be made available for inspection by the public.

(3) The department of health shall generate and make available to the public an annual statistical report of information collected under subsection (2) of this section.

[2009 c 1 § 15 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.160

Effect on construction of wills, contracts, and statutes.

(1) Any provision in a contract, will, or other agreement, whether written or oral, to the extent the provision would affect whether a person may make or rescind a request for medication to end his or her life in a humane and dignified manner, is not valid.

(2) Any obligation owing under any currently existing contract shall not be conditioned or affected by the making or rescinding of a request, by a person, for medication to end his or her life in a humane and dignified manner.

[2009 c 1 § 16 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.170

Insurance or annuity policies.

The sale, procurement, or issuance of any life, health, or accident insurance or annuity policy or the rate charged for any policy shall not be conditioned upon or affected by the making or rescinding of a request, by a person, for medication that the patient may self-administer to end his or her life in a humane and dignified manner. A qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner shall not have an effect upon a life, health, or accident insurance or annuity policy.
[2009 c 1 § 17 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.180
Authority of chapter—References to practices under this chapter—Applicable standard of care.

(1) Nothing in this chapter authorizes a physician or any other person to end a patient's life by lethal injection, mercy killing, or active euthanasia. Actions taken in accordance with this chapter do not, for any purpose, constitute suicide, assisted suicide, mercy killing, or homicide, under the law. State reports shall not refer to practice under this chapter as "suicide" or "assisted suicide." Consistent with RCW 70.245.010 (7), (11), and (12), 70.245.020(1), 70.245.040(1)(k), 70.245.060, 70.245.070, 70.245.090, 70.245.120 (1) and (2), 70.245.160 (1) and (2), 70.245.170, 70.245.190(1) (a) and (d), and 70.245.200(2), state reports shall refer to practice under this chapter as obtaining and self-administering life-ending medication.

(2) Nothing contained in this chapter shall be interpreted to lower the applicable standard of care for the attending physician, consulting physician, psychiatrist or psychologist, or other health care provider participating under this chapter.
[2009 c 1 § 18 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.190
Immunities—Basis for prohibiting health care provider from participation—Notification—Permissible sanctions.

(1) Except as provided in RCW 70.245.200 and subsection (2) of this section:

(a) A person shall not be subject to civil or criminal liability or professional disciplinary action for participating in good faith compliance with this chapter. This includes being present when a qualified patient takes the prescribed medication to end his or her life in a humane and dignified manner;

(b) A professional organization or association, or health care provider, may not subject a person to censure, discipline, suspension, loss of license, loss of privileges, loss of membership, or other penalty for participating or refusing to participate in good faith compliance with this chapter;

(c) A patient's request for or provision by an attending physician of medication in good faith compliance with this chapter does not constitute neglect for any purpose of law or provide the sole basis for the appointment of a guardian or conservator; and

(d) Only willing health care providers shall participate in the provision to a qualified patient of medication to end his or her life in a humane and dignified manner. If a health care provider is unable or unwilling to carry out a patient's request under this chapter, and the patient transfers his or her care to a new health care

provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.

(2)(a) A health care provider may prohibit another health care provider from participating under chapter 1, Laws of 2009 on the premises of the prohibiting provider if the prohibiting provider has given notice to all health care providers with privileges to practice on the premises and to the general public of the prohibiting provider's policy regarding participating under chapter 1, Laws of 2009. This subsection does not prevent a health care provider from providing health care services to a patient that do not constitute participation under chapter 1, Laws of 2009.

(b) A health care provider may subject another health care provider to the sanctions stated in this subsection if the sanctioning health care provider has notified the sanctioned provider before participation in chapter 1, Laws of 2009 that it prohibits participation in chapter 1, Laws of 2009:

(i) Loss of privileges, loss of membership, or other sanctions provided under the medical staff bylaws, policies, and procedures of the sanctioning health care provider if the sanctioned provider is a member of the sanctioning provider's medical staff and participates in chapter 1, Laws of 2009 while on the health care facility premises of the sanctioning health care provider, but not including the private medical office of a physician or other provider;

(ii) Termination of a lease or other property contract or other nonmonetary remedies provided by a lease contract, not including loss or restriction of medical staff privileges or exclusion from a provider panel, if the sanctioned provider participates in chapter 1, Laws of 2009 while on the premises of the sanctioning health care provider or on property that is owned by or under the direct control of the sanctioning health care provider; or

(iii) Termination of a contract or other nonmonetary remedies provided by contract if the sanctioned provider participates in chapter 1, Laws of 2009 while acting in the course and scope of the sanctioned provider's capacity as an employee or independent contractor of the sanctioning health care provider. Nothing in this subsection (2)(b)(iii) prevents:

(A) A health care provider from participating in chapter 1, Laws of 2009 while acting outside the course and scope of the provider's capacity as an employee or independent contractor; or

(B) A patient from contracting with his or her attending physician and consulting physician to act outside the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(c) A health care provider that imposes sanctions under (b) of this subsection shall follow all due process and other procedures the sanctioning health care provider may have that are related to the imposition of sanctions on another health care provider.

(d) For the purposes of this subsection:

(i) "Notify" means a separate statement in writing to the health care provider specifically informing the health care provider before the provider's participation in chapter 1, Laws of 2009 of the sanctioning health care provider's policy about participation in activities covered by this chapter.

(ii) "Participate in chapter 1, Laws of 2009" means to perform the duties of an attending physician under RCW 70.245.040, the consulting physician function under RCW 70.245.050, or the counseling function under RCW 70.245.060. "Participate in chapter 1, Laws of 2009" does not include:

(A) Making an initial determination that a patient has a terminal disease and informing the patient of the medical prognosis;

(B) Providing information about the Washington death with dignity act to a patient upon the request of the patient;

(C) Providing a patient, upon the request of the patient, with a referral to another physician; or

(D) A patient contracting with his or her attending physician and consulting physician to act outside of the course and scope of the provider's capacity as an employee or independent contractor of the sanctioning health care provider.

(3) Suspension or termination of staff membership or privileges under subsection (2) of this section is not reportable under RCW 18.130.070. Action taken under RCW 70.245.030, 70.245.040, 70.245.050, or 70.245.060 may not be the sole basis for a report of unprofessional conduct under RCW 18.130.180.

(4) References to "good faith" in subsection (1)(a), (b), and (c) of this section do not allow a lower standard of care for health care providers in the state of Washington.

[2009 c 1 § 19 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.200
Willful alteration/forgery—Coercion or undue influence—Penalties—Civil damages—Other penalties not precluded.

(1) A person who without authorization of the patient willfully alters or forges a request for medication or conceals or destroys a rescission of that request with the intent or effect of causing the patient's death is guilty of a class A felony.

(2) A person who coerces or exerts undue influence on a patient to request medication to end the patient's life, or to destroy a rescission of a request, is guilty of a class A felony.

(3) This chapter does not limit further liability for civil damages resulting from other negligent conduct or intentional misconduct by any person.

(4) The penalties in this chapter do not preclude criminal penalties applicable under other law for conduct that is inconsistent with this chapter.

[2009 c 1 § 20 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.210
Claims by governmental entity for costs incurred.

Any governmental entity that incurs costs resulting from a person terminating his or her life under this chapter in a public place has a claim against the estate of the person to recover such costs and reasonable attorneys' fees related to enforcing the claim.

[2009 c 1 § 21 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.220
Form of the request.

A request for a medication as authorized by this chapter shall be in substantially the following form:

Chapter 70.245 RCW

THE WASHINGTON DEATH WITH DIGNITY ACT

REQUEST FOR MEDICATION TO END MY LIFE IN A HUMAN [HUMANE] AND DIGNIFIED MANNER

I, ..., am an adult of sound mind.

I am suffering from . . . . . ., which my attending physician has determined is a terminal disease and which has been medically confirmed by a consulting physician.

I have been fully informed of my diagnosis, prognosis, the nature of medication to be prescribed and potential associated risks, the expected result, and the feasible alternatives, including comfort care, hospice care, and pain control.

I request that my attending physician prescribe medication that I may self-administer to end my life in a humane and dignified manner and to contact any pharmacist to fill the prescription.

INITIAL ONE:

. . . . . I have informed my family of my decision and taken their opinions into consideration.

. . . . . I have decided not to inform my family of my decision.

. . . . . I have no family to inform of my decision.

I understand that I have the right to rescind this request at any time.

I understand the full import of this request and I expect to die when I take the medication to be prescribed. I further understand that although most deaths occur within three hours, my death may take longer and my physician has counseled me about this possibility.

I make this request voluntarily and without reservation, and I accept full moral responsibility for my actions.

Signed: . . . . . .

Dated: . . . . . .

DECLARATION OF WITNESSES

By initialing and signing below on or after the date the person named above signs, we declare that the person making and signing the above request:

Witness 1 Initials	Witness 2 Initials	
. . . .	. . . .	1. Is personally known to us or has provided proof of identity;
. . . .	. . . .	2. Signed this request in our presence on the date of the person's signature;
. . . .	. . . .	3. Appears to be of sound mind and not under duress, fraud, or undue influence;
. . . .	. . . .	4. Is not a patient for whom either of us is the attending physician.

Printed Name of Witness 1:. . . .

Signature of Witness 1/Date:. . . .

Printed Name of Witness 2:. . . .

Signature of Witness 2/Date:. . . .

NOTE: One witness shall not be a relative by blood, marriage, or adoption of the person signing this request, shall not be entitled to any portion of the person's estate upon death, and shall not own, operate, or be employed at a health care facility where the person is a patient or resident. If the patient is an inpatient at a health care facility, one of the witnesses shall be an individual designated by the facility.

[2009 c 1 § 22 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.901
Short title—2009 c 1 (Initiative Measure No. 1000).

This act may be known and cited as the Washington death with dignity act.
[2009 c 1 § 26 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.902
Severability—2009 c 1 (Initiative Measure No. 1000).

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
[2009 c 1 § 27 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.903
Effective dates—2009 c 1 (Initiative Measure No. 1000).

This act takes effect one hundred twenty days after the election at which it is approved [March 5, 2009], except for section 24 of this act which takes effect July 1, 2009.
[2009 c 1 § 28 (Initiative Measure No. 1000, approved November 4, 2008).]

70.245.904
Captions, part headings, and subpart headings not law—2009 c 1 (Initiative Measure No. 1000).

Captions, part headings, and subpart headings used in this act are not any part of the law.
[2009 c 1 § 30 (Initiative Measure No. 1000, approved November 4, 2008).]

Chapter 74.34 RCW

ABUSE OF VULNERABLE ADULTS

Sections

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74.34.025	Limitation on recovery for protective services and benefits.
74.34.035	Reports—Mandated and permissive—Contents—Confidentiality.
74.34.040	Reports—Contents—Identity confidential.
74.34.050	Immunity from liability.
74.34.053	Failure to report—False reports—Penalties.
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74.34.067	Investigations—Interviews—Ongoing case planning—Agreements with tribes—Conclusion of investigation.
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74.34.110	Protection of vulnerable adults—Petition for protective order.
74.34.115	Protection of vulnerable adults—Administrative office of the courts—Standard petition—Order for protection—Standard notice—Court staff handbook.
74.34.120	Protection of vulnerable adults—Hearing.
74.34.130	Protection of vulnerable adults—Judicial relief.
74.34.135	Protection of vulnerable adults—Filings by others—Dismissal of petition or order—Testimony or evidence—Additional evidentiary hearings—Temporary order.
74.34.140	Protection of vulnerable adults—Execution of protective order.
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74.34.150	Protection of vulnerable adults—Department may seek relief.
74.34.160	Protection of vulnerable adults—Proceedings are supplemental.
74.34.163	Application to modify or vacate order.
74.34.165	Rules.
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74.34.200	Abandonment, abuse, financial exploitation, or neglect of a vulnerable adult—Cause of action for damages—Legislative intent.
74.34.205	Abandonment, abuse, or neglect—Exceptions.
74.34.210	Order for protection or action for damages—Standing—Jurisdiction.
74.34.215	Financial exploitation of vulnerable adults.
74.34.220	Financial exploitation of vulnerable adults—Training—Reporting.
74.34.300	Vulnerable adult fatality reviews.
74.34.305	Statement to vulnerable adults.
74.34.310	Service of process or filing fees prohibited—Certified copies.
74.34.900	Severability—1984 c 97.
74.34.901	Severability—1986 c 187.
74.34.902	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

NOTES:

Domestic violence prevention, authority of department of social and health services to seek relief on behalf of vulnerable adults: RCW 26.50.021.

Patients in nursing homes and hospitals, abuse: Chapter 70.124 RCW.

74.34.005
Findings.

The legislature finds and declares that:

(1) Some adults are vulnerable and may be subjected to abuse, neglect, financial exploitation, or abandonment by a family member, care provider, or other person who has a relationship with the vulnerable adult;

(2) A vulnerable adult may be home bound or otherwise unable to represent himself or herself in court or to retain legal counsel in order to obtain the relief available under this chapter or other protections offered through the courts;

(3) A vulnerable adult may lack the ability to perform or obtain those services necessary to maintain his or her well-being because he or she lacks the capacity for consent;

(4) A vulnerable adult may have health problems that place him or her in a dependent position;

(5) The department and appropriate agencies must be prepared to receive reports of abandonment, abuse, financial exploitation, or neglect of vulnerable adults;

(6) The department must provide protective services in the least restrictive environment appropriate and available to the vulnerable adult.

[1999 c 176 § 2.]

NOTES:

Findings—Purpose—1999 c 176: "The legislature finds that the provisions for the protection of vulnerable adults found in chapters 26.44, 70.124, and 74.34 RCW contain different definitions for abandonment, abuse, exploitation, and neglect. The legislature finds that combining the sections of these chapters that pertain to the protection of vulnerable adults would better serve this state's population of vulnerable adults. The purpose of chapter 74.34 RCW is to provide the department and law enforcement agencies with the authority to investigate complaints of abandonment, abuse, financial exploitation, or neglect of vulnerable adults and to provide protective services and legal remedies to protect these vulnerable adults." [1999 c 176 § 1.]

Severability—1999 c 176: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1999 c 176 § 36.]

Conflict with federal requirements—1999 c 176: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1999 c 176 § 37.]

74.34.020
Definitions.

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

(1) "Abandonment" means action or inaction by a person or entity with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

Chapter 74.34 RCW

ABUSE OF VULNERABLE ADULTS

(2) "Abuse" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:

(a) "Sexual abuse" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.

(b) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.

(c) "Mental abuse" means a willful verbal or nonverbal action that threatens, humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes a vulnerable adult. Mental abuse may include ridiculing, yelling, or swearing.

(d) "Personal exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another.

(e) "Improper use of restraint" means the inappropriate use of chemical, physical, or mechanical restraints for convenience or discipline or in a manner that: (i) Is inconsistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is not medically authorized; or (iii) otherwise constitutes abuse under this section.

(3) "Chemical restraint" means the administration of any drug to manage a vulnerable adult's behavior in a way that reduces the safety risk to the vulnerable adult or others, has the temporary effect of restricting the vulnerable adult's freedom of movement, and is not standard treatment for the vulnerable adult's medical or psychiatric condition.

(4) "Consent" means express written consent granted after the vulnerable adult or his or her legal representative has been fully informed of the nature of the services to be offered and that the receipt of services is voluntary.

(5) "Department" means the department of social and health services.

(6) "Facility" means a residence licensed or required to be licensed under chapter 18.20 RCW, assisted living facilities; chapter 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or certified by the department.

(7) "Financial exploitation" means the illegal or improper use, control over, or withholding of the property, income, resources, or trust funds of the vulnerable adult by any person or entity for any person's or entity's profit or advantage other than for the vulnerable adult's profit or advantage. "Financial exploitation" includes, but is not limited to:

(a) The use of deception, intimidation, or undue influence by a person or entity in a position of trust and confidence with a vulnerable adult to obtain or use the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult;

(b) The breach of a fiduciary duty, including, but not limited to, the misuse of a power of attorney, trust, or a guardianship appointment, that results in the unauthorized appropriation, sale, or transfer of the property, income, resources, or trust funds of the vulnerable adult for the benefit of a person or entity other than the vulnerable adult; or

(c) Obtaining or using a vulnerable adult's property, income, resources, or trust funds without lawful authority, by a person or entity who knows or clearly should know that the vulnerable adult lacks the capacity to consent to the release or use of his or her property, income, resources, or trust funds.

(8) "Financial institution" has the same meaning as in RCW 30A.22.040 and 30A.22.041. For purposes of this chapter only, "financial institution" also means a "broker-dealer" or "investment adviser" as defined in RCW 21.20.005.

(9) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW and any employee, agent, officer, director, or independent contractor thereof.

(10) "Incapacitated person" means a person who is at a significant risk of personal or financial harm under RCW 11.88.010(1) (a), (b), (c), or (d).

(11) "Individual provider" means a person under contract with the department to provide services in the home under chapter 74.09 or 74.39A RCW.

(12) "Interested person" means a person who demonstrates to the court's satisfaction that the person is interested in the welfare of the vulnerable adult, that the person has a good faith belief that the court's intervention is necessary, and that the vulnerable adult is unable, due to incapacity, undue influence, or duress at the time the petition is filed, to protect his or her own interests.

(13) "Mandated reporter" is an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to chapter 18.130 RCW.

(14) "Mechanical restraint" means any device attached or adjacent to the vulnerable adult's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body. "Mechanical restraint" does not include the use of devices, materials, or equipment that are (a) medically authorized, as required, and (b) used in a manner that is consistent with federal or state licensing or certification requirements for facilities, hospitals, or programs authorized under chapter 71A.12 RCW.

(15) "Neglect" means (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission by a person or entity with a duty of care that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100.

(16) "Permissive reporter" means any person, including, but not limited to, an employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults.

(17) "Physical restraint" means the application of physical force without the use of any device, for the purpose of restraining the free movement of a vulnerable adult's body. "Physical restraint" does not include (a) briefly holding without undue force a vulnerable adult in order to calm or comfort him or her, or (b) holding a vulnerable adult's hand to safely escort him or her from one area to another.

(18) "Protective services" means any services provided by the department to a vulnerable adult with the consent of the vulnerable adult, or the legal representative of the vulnerable adult, who has been abandoned, abused, financially exploited, neglected, or in a state of self-neglect. These services may include, but are not limited to case management, social casework, home care, placement, arranging for medical evaluations, psychological evaluations, day care, or referral for legal assistance.

(19) "Self-neglect" means the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence

of which impairs or threatens the vulnerable adult's well-being. This definition may include a vulnerable adult who is receiving services through home health, hospice, or a home care agency, or an individual provider when the neglect is not a result of inaction by that agency or individual provider.

(20) "Social worker" means:

(a) A social worker as defined in RCW 18.320.010(2); or

(b) Anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of vulnerable adults, or providing social services to vulnerable adults, whether in an individual capacity or as an employee or agent of any public or private organization or institution.

(21) "Vulnerable adult" includes a person:

(a) Sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself; or

(b) Found incapacitated under chapter 11.88 RCW; or

(c) Who has a developmental disability as defined under RCW 71A.10.020; or

(d) Admitted to any facility; or

(e) Receiving services from home health, hospice, or home care agencies licensed or required to be licensed under chapter 70.127 RCW; or

(f) Receiving services from an individual provider; or

(g) Who self-directs his or her own care and receives services from a personal aide under chapter 74.39 RCW.

[2015 c 268 § 1; 2013 c 263 § 1; 2012 c 10 § 62. Prior: 2011 c 170 § 1; 2011 c 89 § 18; 2010 c 133 § 2; 2007 c 312 § 1; 2006 c 339 § 109; 2003 c 230 § 1; 1999 c 176 § 3; 1997 c 392 § 523; 1995 1st sp.s. c 18 § 84; 1984 c 97 § 8.]

NOTES:

Application—2012 c 10: See note following RCW 18.20.010.

Effective date—2011 c 89: See note following RCW 18.320.005.

Findings—2011 c 89: See RCW 18.320.005.

Intent—Part headings not law—2006 c 339: See notes following RCW 70.96A.325.

Effective date—2003 c 230: "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 immediately [May 12, 2003]." [2003 c 230 § 3.]

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

74.34.025
Limitation on recovery for protective services and benefits.

The cost of benefits and services provided to a vulnerable adult under this chapter with state funds only does not constitute an obligation or lien and is not recoverable from the recipient of the services or from the recipient's estate, whether by lien, adjustment, or any other means of recovery.

[1999 c 176 § 4; 1997 c 392 § 304.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

74.34.035
Reports—Mandated and permissive—Contents—Confidentiality.

(1) When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters shall immediately report to the department.

(2) When there is reason to suspect that sexual assault has occurred, mandated reporters shall immediately report to the appropriate law enforcement agency and to the department.

(3) When there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm:

(a) Mandated reporters shall immediately report to the department; and

(b) Mandated reporters shall immediately report to the appropriate law enforcement agency, except as provided in subsection (4) of this section.

(4) A mandated reporter is not required to report to a law enforcement agency, unless requested by the injured vulnerable adult or his or her legal representative or family member, an incident of physical assault between vulnerable adults that causes minor bodily injury and does not require more than basic first aid, unless:

(a) The injury appears on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;

(b) There is a fracture;

(c) There is a pattern of physical assault between the same vulnerable adults or involving the same vulnerable adults; or

(d) There is an attempt to choke a vulnerable adult.

(5) When there is reason to suspect that the death of a vulnerable adult was caused by abuse, neglect, or abandonment by another person, mandated reporters shall, pursuant to RCW 68.50.020, report the death to the medical examiner or coroner having jurisdiction, as well as the department and local law enforcement, in the most expeditious manner possible. A mandated reporter is not relieved from the reporting requirement provisions of this subsection by the existence of a previously signed death certificate. If abuse, neglect, or abandonment caused or contributed to the death of a vulnerable adult, the death is a death caused by unnatural or unlawful means, and the body shall be the jurisdiction of the coroner or medical examiner pursuant to RCW 68.50.010.

(6) Permissive reporters may report to the department or a law enforcement agency when there is reasonable cause to believe that a vulnerable adult is being or has been abandoned, abused, financially exploited, or neglected.

(7) No facility, as defined by this chapter, agency licensed or required to be licensed under chapter 70.127 RCW, or facility or agency under contract with the department to provide care for vulnerable adults may develop policies or procedures that interfere with the reporting requirements of this chapter.

(8) Each report, oral or written, must contain as much as possible of the following information:

(a) The name and address of the person making the report;

(b) The name and address of the vulnerable adult and the name of the facility or agency providing care for the vulnerable adult;

(c) The name and address of the legal guardian or alternate decision maker;
(d) The nature and extent of the abandonment, abuse, financial exploitation, neglect, or self-neglect;
(e) Any history of previous abandonment, abuse, financial exploitation, neglect, or self-neglect;
(f) The identity of the alleged perpetrator, if known; and
(g) Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, neglect, or the cause of death of the deceased vulnerable adult.

(9) Unless there is a judicial proceeding or the person consents, the identity of the person making the report under this section is confidential.

(10) In conducting an investigation of abandonment, abuse, financial exploitation, self-neglect, or neglect, the department or law enforcement, upon request, must have access to all relevant records related to the vulnerable adult that are in the possession of mandated reporters and their employees, unless otherwise prohibited by law. Records maintained under RCW 4.24.250, 18.20.390, 43.70.510, 70.41.200, 70.230.080, and 74.42.640 shall not be subject to the requirements of this subsection. Providing access to records relevant to an investigation by the department or law enforcement under this provision may not be deemed a violation of any confidential communication privilege. Access to any records that would violate attorney-client privilege shall not be provided without a court order unless otherwise required by court rule or caselaw.
[2013 c 263 § 2; 2010 c 133 § 4; 2003 c 230 § 2; 1999 c 176 § 5.]

NOTES:

Effective date—2003 c 230: See note following RCW 74.34.020.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.040
Reports—Contents—Identity confidential.

The reports made under *RCW 74.34.030 shall contain the following information if known:
(1) Identification of the vulnerable adult;
(2) The nature and extent of the suspected abuse, neglect, exploitation, or abandonment;
(3) Evidence of previous abuse, neglect, exploitation, or abandonment;
(4) The name and address of the person making the report; and
(5) Any other helpful information.

Unless there is a judicial proceeding or the person consents, the identity of the person making the report is confidential.
[1986 c 187 § 2; 1984 c 97 § 10.]

NOTES:

***Reviser's note:** RCW 74.34.030 was repealed by 1999 c 176 § 35.

74.34.050
Immunity from liability.

(1) A person participating in good faith in making a report under this chapter or testifying about alleged abuse, neglect, abandonment, financial exploitation, or self-neglect of a vulnerable adult in a judicial or

administrative proceeding under this chapter is immune from liability resulting from the report or testimony. The making of permissive reports as allowed in this chapter does not create any duty to report and no civil liability shall attach for any failure to make a permissive report as allowed under this chapter.

(2) Conduct conforming with the reporting and testifying provisions of this chapter shall not be deemed a violation of any confidential communication privilege. Nothing in this chapter shall be construed as superseding or abridging remedies provided in chapter 4.92 RCW.

[1999 c 176 § 6; 1997 c 386 § 34; 1986 c 187 § 3; 1984 c 97 § 11.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Application—Effective date—1997 c 386: See notes following RCW 13.50.010.

74.34.053
Failure to report—False reports—Penalties.

(1) A person who is required to make a report under this chapter and who knowingly fails to make the report is guilty of a gross misdemeanor.

(2) A person who intentionally, maliciously, or in bad faith makes a false report of alleged abandonment, abuse, financial exploitation, or neglect of a vulnerable adult is guilty of a misdemeanor.

[1999 c 176 § 7.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.063
Response to reports—Timing—Reports to law enforcement agencies—Notification to licensing authority.

(1) The department shall initiate a response to a report, no later than twenty-four hours after knowledge of the report, of suspected abandonment, abuse, financial exploitation, neglect, or self-neglect of a vulnerable adult.

(2) When the initial report or investigation by the department indicates that the alleged abandonment, abuse, financial exploitation, or neglect may be criminal, the department shall make an immediate report to the appropriate law enforcement agency. The department and law enforcement will coordinate in investigating reports made under this chapter. The department may provide protective services and other remedies as specified in this chapter.

(3) The law enforcement agency or the department shall report the incident in writing to the proper county prosecutor or city attorney for appropriate action whenever the investigation reveals that a crime may have been committed.

(4) The department and law enforcement may share information contained in reports and findings of abandonment, abuse, financial exploitation, and neglect of vulnerable adults, consistent with RCW 74.04.060, chapter 42.56 RCW, and other applicable confidentiality laws.

(5) The department shall notify the proper licensing authority concerning any report received under this chapter that alleges that a person who is professionally licensed, certified, or registered under Title 18 RCW has abandoned, abused, financially exploited, or neglected a vulnerable adult.

[2005 c 274 § 354; 1999 c 176 § 8.]
NOTES:

Part headings not law—Effective date—2005 c 274: See RCW 42.56.901 and 42.56.902.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.067
Investigations—Interviews—Ongoing case planning—Agreements with tribes—Conclusion of investigation.

(1) Where appropriate, an investigation by the department may include a private interview with the vulnerable adult regarding the alleged abandonment, abuse, financial exploitation, neglect, or self-neglect.

(2) In conducting the investigation, the department shall interview the complainant, unless anonymous, and shall use its best efforts to interview the vulnerable adult or adults harmed, and, consistent with the protection of the vulnerable adult shall interview facility staff, any available independent sources of relevant information, including if appropriate the family members of the vulnerable adult.

(3) The department may conduct ongoing case planning and consultation with: (a) Those persons or agencies required to report under this chapter or submit a report under this chapter; (b) consultants designated by the department; and (c) designated representatives of Washington Indian tribes if client information exchanged is pertinent to cases under investigation or the provision of protective services. Information considered privileged by statute and not directly related to reports required by this chapter must not be divulged without a valid written waiver of the privilege.

(4) The department shall prepare and keep on file a report of each investigation conducted by the department for a period of time in accordance with policies established by the department.

(5) If the department has reason to believe that the vulnerable adult has suffered from abandonment, abuse, financial exploitation, neglect, or self-neglect, and lacks the ability or capacity to consent, and needs the protection of a guardian, the department may bring a guardianship action under chapter 11.88 RCW.

(6) For purposes consistent with this chapter, the department, the certified professional guardian board, and the office of public guardianship may share information contained in reports and investigations of the abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. This information may be used solely for (a) recruiting or appointing appropriate guardians and (b) monitoring, or when appropriate, disciplining certified professional or public guardians. Reports of abuse, abandonment, neglect, self-neglect, and financial exploitation are confidential under RCW 74.34.095 and other laws, and secondary disclosure of information shared under this section is prohibited.

(7) When the investigation is completed and the department determines that an incident of abandonment, abuse, financial exploitation, neglect, or self-neglect has occurred, the department shall inform the vulnerable adult of their right to refuse protective services, and ensure that, if necessary, appropriate protective services are provided to the vulnerable adult, with the consent of the vulnerable adult. The vulnerable adult has the right to withdraw or refuse protective services.

(8) The department's adult protective services division may enter into agreements with federally recognized tribes to investigate reports of abandonment, abuse, financial exploitation, neglect, or self-neglect of vulnerable adults on property over which a federally recognized tribe has exclusive jurisdiction. If the department has information that abandonment, abuse, financial exploitation, or neglect is criminal or is placing a vulnerable adult on tribal property at potential risk of personal or financial harm, the department may

notify tribal law enforcement or another tribal representative specified by the tribe. Upon receipt of the notification, the tribe may assume jurisdiction of the matter. Neither the department nor its employees may participate in the investigation after the tribe assumes jurisdiction. The department, its officers, and its employees are not liable for any action or inaction of the tribe or for any harm to the alleged victim, the person against whom the allegations were made, or other parties that occurs after the tribe assumes jurisdiction. Nothing in this section limits the department's jurisdiction and authority over facilities or entities that the department licenses or certifies under federal or state law.

(9) The department may photograph a vulnerable adult or their environment for the purpose of providing documentary evidence of the physical condition of the vulnerable adult or his or her environment. When photographing the vulnerable adult, the department shall obtain permission from the vulnerable adult or his or her legal representative unless immediate photographing is necessary to preserve evidence. However, if the legal representative is alleged to have abused, neglected, abandoned, or exploited the vulnerable adult, consent from the legal representative is not necessary. No such consent is necessary when photographing the physical environment.

(10) When the investigation is complete and the department determines that the incident of abandonment, abuse, financial exploitation, or neglect has occurred, the department shall inform the facility in which the incident occurred, consistent with confidentiality requirements concerning the vulnerable adult, witnesses, and complainants.

[2013 c 263 § 3; 2011 c 170 § 2; 2007 c 312 § 2; 1999 c 176 § 9.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.068
Investigation results—Report—Rules. (*Effective until April 1, 2016.*)

(1) After the investigation is complete, the department may provide a written report of the outcome of the investigation to an agency or program described in this subsection when the department determines from its investigation that an incident of abuse, abandonment, financial exploitation, or neglect occurred. Agencies or programs that may be provided this report are home health, hospice, or home care agencies, or after January 1, 2002, any in-home services agency licensed under chapter 70.127 RCW, a program authorized under chapter 71A.12 RCW, an adult day care or day health program, regional support networks authorized under chapter 71.24 RCW, or other agencies. The report may contain the name of the vulnerable adult and the alleged perpetrator. The report shall not disclose the identity of the person who made the report or any witness without the written permission of the reporter or witness. The department shall notify the alleged perpetrator regarding the outcome of the investigation. The name of the vulnerable adult must not be disclosed during this notification.

(2) The department may also refer a report or outcome of an investigation to appropriate state or local governmental authorities responsible for licensing or certification of the agencies or programs listed in subsection (1) of this section.

(3) The department shall adopt rules necessary to implement this section.

[2001 c 233 § 2.]

NOTES:

Finding—2001 c 233: "The legislature recognizes that vulnerable adults, while living in their own homes, may be abused, neglected, financially exploited, or abandoned by individuals entrusted to provide care for them. The individuals who abuse, neglect, financially exploit, or abandon vulnerable adults may be employed by, under contract with, or volunteering for an agency or program providing care for vulnerable

adults. The legislature has given the department of social and health services the responsibility to investigate complaints of abandonment, abuse, financial exploitation, or neglect of vulnerable adults and to provide protective services and other legal remedies to protect these vulnerable adults. The legislature finds that in order to continue to protect vulnerable adults, the department of social and health services be given the authority to release report information and to release the results of an investigation to the agency or program with which the individual investigated is employed, contracted, or engaged as a volunteer." [2001 c 233 § 1.]

74.34.068
Investigation results—Report—Rules. (*Effective April 1, 2016.*)

(1) After the investigation is complete, the department may provide a written report of the outcome of the investigation to an agency or program described in this subsection when the department determines from its investigation that an incident of abuse, abandonment, financial exploitation, or neglect occurred. Agencies or programs that may be provided this report are home health, hospice, or home care agencies, or after January 1, 2002, any in-home services agency licensed under chapter 70.127 RCW, a program authorized under chapter 71A.12 RCW, an adult day care or day health program, behavioral health organizations authorized under chapter 71.24 RCW, or other agencies. The report may contain the name of the vulnerable adult and the alleged perpetrator. The report shall not disclose the identity of the person who made the report or any witness without the written permission of the reporter or witness. The department shall notify the alleged perpetrator regarding the outcome of the investigation. The name of the vulnerable adult must not be disclosed during this notification.

(2) The department may also refer a report or outcome of an investigation to appropriate state or local governmental authorities responsible for licensing or certification of the agencies or programs listed in subsection (1) of this section.

(3) The department shall adopt rules necessary to implement this section.

[2014 c 225 § 103; 2001 c 233 § 2.]

NOTES:

Effective date—2014 c 225: See note following RCW 71.24.016.

Finding—2001 c 233: "The legislature recognizes that vulnerable adults, while living in their own homes, may be abused, neglected, financially exploited, or abandoned by individuals entrusted to provide care for them. The individuals who abuse, neglect, financially exploit, or abandon vulnerable adults may be employed by, under contract with, or volunteering for an agency or program providing care for vulnerable adults. The legislature has given the department of social and health services the responsibility to investigate complaints of abandonment, abuse, financial exploitation, or neglect of vulnerable adults and to provide protective services and other legal remedies to protect these vulnerable adults. The legislature finds that in order to continue to protect vulnerable adults, the department of social and health services be given the authority to release report information and to release the results of an investigation to the agency or program with which the individual investigated is employed, contracted, or engaged as a volunteer." [2001 c 233 § 1.]

74.34.070
Cooperative agreements for services.

The department may develop cooperative agreements with community-based agencies providing services for vulnerable adults. The agreements shall cover: (1) The appropriate roles and responsibilities of the department and community-based agencies in identifying and responding to reports of alleged abuse; (2) the

provision of case-management services; (3) standardized data collection procedures; and (4) related coordination activities.
[1999 c 176 § 10; 1997 c 386 § 35; 1995 1st sp.s. c 18 § 87; 1984 c 97 § 13.]
NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

74.34.080
Injunctions.

If access is denied to an employee of the department seeking to investigate an allegation of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult by an individual, the department may seek an injunction to prevent interference with the investigation. The court shall issue the injunction if the department shows that:

(1) There is reasonable cause to believe that the person is a vulnerable adult and is or has been abandoned, abused, financially exploited, or neglected; and

(2) The employee of the department seeking to investigate the report has been denied access.
[1999 c 176 § 11; 1984 c 97 § 14.]
NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.090
Data collection system—Confidentiality.

The department shall maintain a system for statistical data collection, accessible for bona fide research only as the department by rule prescribes. The identity of any person is strictly confidential.
[1984 c 97 § 15.]

74.34.095
Confidential information—Disclosure.

(1) The following information is confidential and not subject to disclosure, except as provided in this section:

(a) A report of abandonment, abuse, financial exploitation, or neglect made under this chapter;

(b) The identity of the person making the report; and

(c) All files, reports, records, communications, and working papers used or developed in the investigation or provision of protective services.

(2) Information considered confidential may be disclosed only for a purpose consistent with this chapter or as authorized by chapter 18.20, 18.51, or 74.39A RCW, or as authorized by the long-term care ombuds programs under federal law or state law, chapter 43.190 RCW.

(3) A court or presiding officer in an administrative proceeding may order disclosure of confidential information only if the court, or presiding officer in an administrative proceeding, determines that disclosure is essential to the administration of justice and will not endanger the life or safety of the vulnerable adult or individual who made the report. The court or presiding officer in an administrative hearing may place restrictions on such disclosure as the court or presiding officer deems proper.
[2013 c 23 § 218; 2000 c 87 § 4; 1999 c 176 § 17.]
NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.110
Protection of vulnerable adults—Petition for protective order.

An action known as a petition for an order for protection of a vulnerable adult in cases of abandonment, abuse, financial exploitation, or neglect is created.

(1) A vulnerable adult, or interested person on behalf of the vulnerable adult, may seek relief from abandonment, abuse, financial exploitation, or neglect, or the threat thereof, by filing a petition for an order for protection in superior court.

(2) A petition shall allege that the petitioner, or person on whose behalf the petition is brought, is a vulnerable adult and that the petitioner, or person on whose behalf the petition is brought, has been abandoned, abused, financially exploited, or neglected, or is threatened with abandonment, abuse, financial exploitation, or neglect by respondent.

(3) A petition shall be accompanied by affidavit made under oath, or a declaration signed under penalty of perjury, stating the specific facts and circumstances which demonstrate the need for the relief sought. If the petition is filed by an interested person, the affidavit or declaration must also include a statement of why the petitioner qualifies as an interested person.

(4) A petition for an order may be made whether or not there is a pending lawsuit, complaint, petition, or other action pending that relates to the issues presented in the petition for an order for protection.

(5) Within ninety days of receipt of the master copy from the administrative office of the courts, all court clerk's offices shall make available the standardized forms and instructions required by RCW 74.34.115.

(6) Any assistance or information provided by any person, including, but not limited to, court clerks, employees of the department, and other court facilitators, to another to complete the forms provided by the court in subsection (5) of this section does not constitute the practice of law.

(7) A petitioner is not required to post bond to obtain relief in any proceeding under this section.

(8) An action under this section shall be filed in the county where the vulnerable adult resides; except that if the vulnerable adult has left or been removed from the residence as a result of abandonment, abuse, financial exploitation, or neglect, or in order to avoid abandonment, abuse, financial exploitation, or neglect, the petitioner may bring an action in the county of either the vulnerable adult's previous or new residence.

(9) No filing fee may be charged to the petitioner for proceedings under this section. Standard forms and written instructions shall be provided free of charge.
[2007 c 312 § 3; 1999 c 176 § 12; 1986 c 187 § 5.]
NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.115
Protection of vulnerable adults—Administrative office of the courts—Standard petition—Order for protection—Standard notice—Court staff handbook.

(1) The administrative office of the courts shall develop and prepare standard petition, temporary order for protection, and permanent order for protection forms, a standard notice form to provide notice to the vulnerable adult if the vulnerable adult is not the petitioner, instructions, and a court staff handbook on the protection order process. The standard petition and order for protection forms must be used after October 1, 2007, for all petitions filed and orders issued under this chapter. The administrative office of the courts, in preparing the instructions, forms, notice, and handbook, may consult with attorneys from the elder law section of the Washington state bar association, judges, the department, the Washington protection and advocacy system, and law enforcement personnel.

(a) The instructions shall be designed to assist petitioners in completing the petition, and shall include a sample of the standard petition and order for protection forms.

(b) The order for protection form shall include, in a conspicuous location, notice of criminal penalties resulting from violation of the order.

(c) The standard notice form shall be designed to explain to the vulnerable adult in clear, plain language the purpose and nature of the petition and that the vulnerable adult has the right to participate in the hearing and to either support or object to the petition.

(2) The administrative office of the courts shall distribute a master copy of the standard forms, instructions, and court staff handbook to all court clerks and shall distribute a master copy of the standard forms to all superior, district, and municipal courts.

(3) The administrative office of the courts shall determine the significant non-English-speaking or limited-English-speaking populations in the state. The administrator shall then arrange for translation of the instructions required by this section, which shall contain a sample of the standard forms, into the languages spoken by those significant non-English-speaking populations, and shall distribute a master copy of the translated instructions to all court clerks by December 31, 2007.

(4) The administrative office of the courts shall update the instructions, standard forms, and court staff handbook when changes in the law make an update necessary. The updates may be made in consultation with the persons and entities specified in subsection (1) of this section.

(5) For purposes of this section, "court clerks" means court administrators in courts of limited jurisdiction and elected court clerks.

[2007 c 312 § 4.]

74.34.120
Protection of vulnerable adults—Hearing.

(1) The court shall order a hearing on a petition under RCW 74.34.110 not later than fourteen days from the date of filing the petition.

(2) Personal service shall be made upon the respondent not less than six court days before the hearing. When good faith attempts to personally serve the respondent have been unsuccessful, the court shall permit service by mail or by publication.

(3) When a petition under RCW 74.34.110 is filed by someone other than the vulnerable adult, notice of the petition and hearing must be personally served upon the vulnerable adult not less than six court days

before the hearing. In addition to copies of all pleadings filed by the petitioner, the petitioner shall provide a written notice to the vulnerable adult using the standard notice form developed under RCW 74.34.115. When good faith attempts to personally serve the vulnerable adult have been unsuccessful, the court shall permit service by mail, or by publication if the court determines that personal service and service by mail cannot be obtained.

(4) If timely service under subsections (2) and (3) of this section cannot be made, the court shall continue the hearing date until the substitute service approved by the court has been satisfied.

(5)(a) A petitioner may move for temporary relief under chapter 7.40 RCW. The court may continue any temporary order for protection granted under chapter 7.40 RCW until the hearing on a petition under RCW 74.34.110 is held.

(b) Written notice of the request for temporary relief must be provided to the respondent, and to the vulnerable adult if someone other than the vulnerable adult filed the petition. A temporary protection order may be granted without written notice to the respondent and vulnerable adult if it clearly appears from specific facts shown by affidavit or declaration that immediate and irreparable injury, loss, or damage would result to the vulnerable adult before the respondent and vulnerable adult can be served and heard, or that show the respondent and vulnerable adult cannot be served with notice, the efforts made to serve them, and the reasons why prior notice should not be required.

[2007 c 312 § 5; 1986 c 187 § 6.]

74.34.130
Protection of vulnerable adults—Judicial relief.

The court may order relief as it deems necessary for the protection of the vulnerable adult, including, but not limited to the following:

(1) Restraining respondent from committing acts of abandonment, abuse, neglect, or financial exploitation against the vulnerable adult;

(2) Excluding the respondent from the vulnerable adult's residence for a specified period or until further order of the court;

(3) Prohibiting contact with the vulnerable adult by respondent for a specified period or until further order of the court;

(4) Prohibiting the respondent from knowingly coming within, or knowingly remaining within, a specified distance from a specified location;

(5) Requiring an accounting by respondent of the disposition of the vulnerable adult's income or other resources;

(6) Restraining the transfer of the respondent's and/or vulnerable adult's property for a specified period not exceeding ninety days; and

(7) Requiring the respondent to pay a filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee.

Any relief granted by an order for protection, other than a judgment for costs, shall be for a fixed period not to exceed five years. The clerk of the court shall enter any order for protection issued under this section into the judicial information system.

[2007 c 312 § 6. Prior: 2000 c 119 § 27; 2000 c 51 § 2; 1999 c 176 § 13; 1986 c 187 § 7.]

NOTES:

Application—2000 c 119: See note following RCW 26.50.021.

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.135
Protection of vulnerable adults—Filings by others—Dismissal of petition or order—Testimony or evidence—Additional evidentiary hearings—Temporary order.

(1) When a petition for protection under RCW 74.34.110 is filed by someone other than the vulnerable adult or the vulnerable adult's full guardian over either the person or the estate, or both, and the vulnerable adult for whom protection is sought advises the court at the hearing that he or she does not want all or part of the protection sought in the petition, then the court may dismiss the petition or the provisions that the vulnerable adult objects to and any protection order issued under RCW 74.34.120 or 74.34.130, or the court may take additional testimony or evidence, or order additional evidentiary hearings to determine whether the vulnerable adult is unable, due to incapacity, undue influence, or duress, to protect his or her person or estate in connection with the issues raised in the petition or order. If an additional evidentiary hearing is ordered and the court determines that there is reason to believe that there is a genuine issue about whether the vulnerable adult is unable to protect his or her person or estate in connection with the issues raised in the petition or order, the court may issue a temporary order for protection of the vulnerable adult pending a decision after the evidentiary hearing.

(2) An evidentiary hearing on the issue of whether the vulnerable adult is unable, due to incapacity, undue influence, or duress, to protect his or her person or estate in connection with the issues raised in the petition or order, shall be held within fourteen days of entry of the temporary order for protection under subsection (1) of this section. If the court did not enter a temporary order for protection, the evidentiary hearing shall be held within fourteen days of the prior hearing on the petition. Notice of the time and place of the evidentiary hearing shall be personally served upon the vulnerable adult and the respondent not less than six court days before the hearing. When good faith attempts to personally serve the vulnerable adult and the respondent have been unsuccessful, the court shall permit service by mail, or by publication if the court determines that personal service and service by mail cannot be obtained. If timely service cannot be made, the court may set a new hearing date. A hearing under this subsection is not necessary if the vulnerable adult has been determined to be fully incapacitated over either the person or the estate, or both, under the guardianship laws, chapter 11.88 RCW. If a hearing is scheduled under this subsection, the protection order shall remain in effect pending the court's decision at the subsequent hearing.

(3) At the hearing scheduled by the court, the court shall give the vulnerable adult, the respondent, the petitioner, and in the court's discretion other interested persons, the opportunity to testify and submit relevant evidence.

(4) If the court determines that the vulnerable adult is capable of protecting his or her person or estate in connection with the issues raised in the petition, and the individual continues to object to the protection order, the court shall dismiss the order or may modify the order if agreed to by the vulnerable adult. If the court determines that the vulnerable adult is not capable of protecting his or her person or estate in connection with the issues raised in the petition or order, and that the individual continues to need protection, the court shall order relief consistent with RCW 74.34.130 as it deems necessary for the protection of the vulnerable adult. In the entry of any order that is inconsistent with the expressed wishes of the vulnerable adult, the court's order shall be governed by the legislative findings contained in RCW 74.34.005.
[2007 c 312 § 9.]

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74.34.140
Protection of vulnerable adults—Execution of protective order.

When an order for protection under RCW 74.34.130 is issued upon request of the petitioner, the court may order a peace officer to assist in the execution of the order of protection. A public agency may not charge a fee for service of process to petitioners seeking relief under this chapter. Petitioners must be provided the necessary number of certified copies at no cost.
[2012 c 156 § 2; 1986 c 187 § 8.]

74.34.145
Protection of vulnerable adults—Notice of criminal penalties for violation—Enforcement under RCW 26.50.110.

(1) An order for protection of a vulnerable adult issued under this chapter which restrains the respondent or another person from committing acts of abuse, prohibits contact with the vulnerable adult, excludes the person from any specified location, or prohibits the person from coming within a specified distance from a location, shall prominently bear on the front page of the order the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

(2) Whenever an order for protection of a vulnerable adult is issued under this chapter, and the respondent or person to be restrained knows of the order, a violation of a provision restraining the person from committing acts of abuse, prohibiting contact with the vulnerable adult, excluding the person from any specified location, or prohibiting the person from coming within a specified distance of a location, shall be punishable under RCW 26.50.110, regardless of whether the person is a family or household member as defined in RCW 26.50.010.
[2007 c 312 § 7; 2000 c 119 § 2.]

NOTES:

Application—2000 c 119: See note following RCW 26.50.021.

74.34.150
Protection of vulnerable adults—Department may seek relief.

The department of social and health services, in its discretion, may seek relief under RCW 74.34.110 through 74.34.140 on behalf of and with the consent of any vulnerable adult. When the department has reason to believe a vulnerable adult lacks the ability or capacity to consent, the department, in its discretion, may seek relief under RCW 74.34.110 through 74.34.140 on behalf of the vulnerable adult. Neither the department of social and health services nor the state of Washington shall be liable for seeking or failing to seek relief on behalf of any persons under this section.
[2007 c 312 § 8; 1986 c 187 § 9.]

74.34.160
Protection of vulnerable adults—Proceedings are supplemental.

Any proceeding under RCW 74.34.110 through 74.34.150 is in addition to any other civil or criminal remedies.
[1986 c 187 § 11.]

74.34.163
Application to modify or vacate order.

Any vulnerable adult who has not been adjudicated fully incapacitated under chapter 11.88 RCW, or the vulnerable adult's guardian, at any time subsequent to entry of a permanent protection order under this chapter, may apply to the court for an order to modify or vacate the order. In a hearing on an application to dismiss or modify the protection order, the court shall grant such relief consistent with RCW 74.34.110 as it deems necessary for the protection of the vulnerable adult, including dismissal or modification of the protection order.
[2007 c 312 § 10.]

74.34.165
Rules.

The department may adopt rules relating to the reporting, investigation, and provision of protective services in in-home settings, consistent with the objectives of this chapter.
[1999 c 176 § 18.]
NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.170
Services of department discretionary—Funding.

The provision of services under RCW 74.34.030, 74.34.040, 74.34.050, and 74.34.100 through 74.34.160 are discretionary and the department shall not be required to expend additional funds beyond those appropriated.
[1986 c 187 § 10.]
NOTES:

Reviser's note: *(1) RCW 74.34.030 was repealed by 1999 c 176 § 35.

**(2) RCW 74.34.100 was recodified as RCW 74.34.015 pursuant to 1995 1st sp.s. c 18 § 89, effective July 1, 1995. RCW 74.34.015 was subsequently repealed by 1999 c 176 § 35.

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74.34.180
Retaliation against whistleblowers and residents—Remedies—Rules.

(1) An employee or contractor who is a whistleblower and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action, has the remedies provided under chapter 49.60 RCW. RCW 4.24.500 through 4.24.520, providing certain protection to persons who communicate to government agencies, apply to complaints made under this section. The identity of a whistleblower who complains, in good faith, to the department or the department of health about suspected abandonment, abuse, financial exploitation, or neglect by any person in a facility, licensed or required to be licensed, or care provided in a facility or in a home setting, by any person associated with a hospice, home care, or home health agency licensed under chapter 70.127 RCW or other in-home provider, may remain confidential if requested. The identity of the whistleblower shall subsequently remain confidential unless the department determines that the complaint was not made in good faith.

(2)(a) An attempt to expel a resident from a facility, or any type of discriminatory treatment of a resident who is a consumer of hospice, home health, home care services, or other in-home services by whom, or upon whose behalf, a complaint substantiated by the department or the department of health has been submitted to the department or the department of health or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of the action, raises a rebuttable presumption that the action was in retaliation for the filing of the complaint.

(b) The presumption is rebutted by credible evidence establishing the alleged retaliatory action was initiated prior to the complaint.

(c) The presumption is rebutted by a review conducted by the department that shows that the resident or consumer's needs cannot be met by the reasonable accommodations of the facility due to the increased needs of the resident.

(3) For the purposes of this section:

(a) "Whistleblower" means a resident or a person with a mandatory duty to report under this chapter, or any person licensed under Title 18 RCW, who in good faith reports alleged abandonment, abuse, financial exploitation, or neglect to the department, or the department of health, or to a law enforcement agency;

(b) "Workplace reprisal or retaliatory action" means, but is not limited to: Denial of adequate staff to perform duties; frequent staff changes; frequent and undesirable office changes; refusal to assign meaningful work; unwarranted and unsubstantiated report of misconduct under Title 18 RCW; letters of reprimand or unsatisfactory performance evaluations; demotion; denial of employment; or a supervisor or superior encouraging coworkers to behave in a hostile manner toward the whistleblower. The protections provided to whistleblowers under this chapter shall not prevent a facility or an agency licensed under chapter 70.127 RCW from: (i) Terminating, suspending, or disciplining a whistleblower for other lawful purposes; or (ii) for facilities licensed under chapter 70.128 RCW, reducing the hours of employment or terminating employment as a result of the demonstrated inability to meet payroll requirements. The department shall determine if the facility cannot meet payroll in cases in which a whistleblower has been terminated or had hours of employment reduced because of the inability of a facility to meet payroll; and

(c) "Reasonable accommodation" by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

(4) This section does not prohibit a facility or an agency licensed under chapter 70.127 RCW from exercising its authority to terminate, suspend, or discipline any employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(5) The department shall adopt rules to implement procedures for filing, investigation, and resolution of whistleblower complaints that are integrated with complaint procedures under this chapter.

(6)(a) Any vulnerable adult who relies upon and is being provided spiritual treatment in lieu of medical treatment in accordance with the tenets and practices of a well-recognized religious denomination may not for that reason alone be considered abandoned, abused, or neglected.

(b) Any vulnerable adult may not be considered abandoned, abused, or neglected under this chapter by any health care provider, facility, facility employee, agency, agency employee, or individual provider who participates in good faith in the withholding or withdrawing of life-sustaining treatment from a vulnerable adult under chapter 70.122 RCW, or who acts in accordance with chapter 7.70 RCW or other state laws to withhold or withdraw treatment, goods, or services.

(7) The department, and the department of health for facilities, agencies, or individuals it regulates, shall adopt rules designed to discourage whistleblower complaints made in bad faith or for retaliatory purposes.
[1999 c 176 § 14; 1997 c 392 § 202.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Short title—Findings—Construction—Conflict with federal requirements—Part headings and captions not law—1997 c 392: See notes following RCW 74.39A.009.

74.34.200
Abandonment, abuse, financial exploitation, or neglect of a vulnerable adult—Cause of action for damages—Legislative intent.

(1) In addition to other remedies available under the law, a vulnerable adult who has been subjected to abandonment, abuse, financial exploitation, or neglect either while residing in a facility or in the case of a person residing at home who receives care from a home health, hospice, or home care agency, or an individual provider, shall have a cause of action for damages on account of his or her injuries, pain and suffering, and loss of property sustained thereby. This action shall be available where the defendant is or was a corporation, trust, unincorporated association, partnership, administrator, employee, agent, officer, partner, or director of a facility, or of a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW, as now or subsequently designated, or an individual provider.

(2) It is the intent of the legislature, however, that where there is a dispute about the care or treatment of a vulnerable adult, the parties should use the least formal means available to try to resolve the dispute. Where feasible, parties are encouraged but not mandated to employ direct discussion with the health care provider, use of the long-term care ombuds or other intermediaries, and, when necessary, recourse through licensing or other regulatory authorities.

(3) In an action brought under this section, a prevailing plaintiff shall be awarded his or her actual damages, together with the costs of the suit, including a reasonable attorneys' fee. The term "costs" includes, but is not limited to, the reasonable fees for a guardian, guardian ad litem, and experts, if any, that may be necessary to the litigation of a claim brought under this section.
[2013 c 23 § 219; 1999 c 176 § 15; 1995 1st sp.s. c 18 § 85.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

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74.34.205
Abandonment, abuse, or neglect—Exceptions.

(1) Any vulnerable adult who relies upon and is being provided spiritual treatment in lieu of medical treatment in accordance with the tenets and practices of a well-recognized religious denomination may not for that reason alone be considered abandoned, abused, or neglected.

(2) Any vulnerable adult may not be considered abandoned, abused, or neglected under this chapter by any health care provider, facility, facility employee, agency, agency employee, or individual provider who participates in good faith in the withholding or withdrawing of life-sustaining treatment from a vulnerable adult under chapter 70.122 RCW, or who acts in accordance with chapter 7.70 RCW or other state laws to withhold or withdraw treatment, goods, or services.

[1999 c 176 § 16.]

NOTES:

Findings—Purpose—Severability—Conflict with federal requirements—1999 c 176: See notes following RCW 74.34.005.

74.34.210
Order for protection or action for damages—Standing—Jurisdiction.

A petition for an order for protection may be brought by the vulnerable adult, the vulnerable adult's guardian or legal fiduciary, the department, or any interested person as defined in RCW 74.34.020. An action for damages under this chapter may be brought by the vulnerable adult, or where necessary, by his or her family members and/or guardian or legal fiduciary. The death of the vulnerable adult shall not deprive the court of jurisdiction over a petition or claim brought under this chapter. Upon petition, after the death of the vulnerable adult, the right to initiate or maintain the action shall be transferred to the executor or administrator of the deceased, for recovery of all damages for the benefit of the deceased person's beneficiaries set forth in chapter 4.20 RCW or if there are no beneficiaries, then for recovery of all economic losses sustained by the deceased person's estate.

[2007 c 312 § 11; 1995 1st sp.s. c 18 § 86.]

NOTES:

Conflict with federal requirements—Severability—Effective date—1995 1st sp.s. c 18: See notes following RCW 74.39A.030.

74.34.215
Financial exploitation of vulnerable adults.

(1) Pending an investigation by the financial institution, the department, or law enforcement, if a financial institution reasonably believes that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring disbursal of funds contained in the account:

(a) Of the vulnerable adult;

(b) On which the vulnerable adult is a beneficiary, including a trust or guardianship account; or

(c) Of a person suspected of perpetrating financial exploitation of a vulnerable adult.

(2) A financial institution may also refuse to disburse funds under this section if the department, law enforcement, or the prosecuting attorney's office provides information to the financial institution demonstrating that it is reasonable to believe that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted.

(3) A financial institution is not required to refuse to disburse funds when provided with information alleging that financial exploitation may have occurred, may have been attempted, or is being attempted, but may use its discretion to determine whether or not to refuse to disburse funds based on the information available to the financial institution.

(4) A financial institution that refuses to disburse funds based on a reasonable belief that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted shall:

(a) Make a reasonable effort to notify all parties authorized to transact business on the account orally or in writing; and

(b) Report the incident to the adult protective services division of the department and local law enforcement.

(5) Any refusal to disburse funds as authorized by this section based on the reasonable belief of a financial institution that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted will expire upon the sooner of:

(a) Ten business days after the date on which the financial institution first refused to disburse the funds if the transaction involved the sale of a security or offer to sell a security, as defined in RCW 21.20.005, unless sooner terminated by an order of a court of competent jurisdiction;

(b) Five business days after the date on which the financial institution first refused to disburse the funds if the transaction did not involve the sale of a security or offer to sell a security, as defined in RCW 21.20.005, unless sooner terminated by an order of a court of competent jurisdiction; or

(c) The time when the financial institution is satisfied that the disbursement will not result in financial exploitation of a vulnerable adult.

(6) A court of competent jurisdiction may enter an order extending the refusal by the financial institution to disburse funds based on a reasonable belief that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted. A court of competent jurisdiction may also order other protective relief as authorized by RCW 7.40.010 and 74.34.130.

(7) A financial institution or an employee of a financial institution is immune from criminal, civil, and administrative liability for refusing to disburse funds or disbursing funds under this section and for actions taken in furtherance of that determination if the determination of whether or not to disburse funds was made in good faith.

[2010 c 133 § 3.]

74.34.220
Financial exploitation of vulnerable adults—Training—Reporting.

(1) A financial institution shall provide training concerning the financial exploitation of vulnerable adults to the employees specified in subsection (2) of this section within one year of June 10, 2010, and shall thereafter provide such training to the new employees specified in subsection (2) of this section within the first three months of their employment.

(2) A financial institution that is a broker-dealer or investment adviser as defined in RCW 21.20.005 shall provide training concerning the financial exploitation of vulnerable adults to employees who are required to be registered in the state of Washington as salespersons or investment adviser representatives under RCW

21.20.040 and who have contact with customers and access to account information on a regular basis and as part of their job. All other financial institutions shall provide training concerning the financial exploitation of vulnerable adults to employees who have contact with customers and access to account information on a regular basis and as part of their job.

(3) The training must include recognition of indicators of financial exploitation of a vulnerable adult, the manner in which employees may report suspected financial exploitation to the department and law enforcement as permissive reporters, and steps employees may take to prevent suspected financial exploitation of a vulnerable adult as authorized by law or agreements between the financial institution and customers of the financial institution. The office of the attorney general and the department shall develop a standardized training that financial institutions may offer, or the financial institution may develop its own training.

(4) A financial institution may provide access to or copies of records that are relevant to suspected financial exploitation or attempted financial exploitation of a vulnerable adult to the department, law enforcement, or the prosecuting attorney's office, either as part of a referral to the department, law enforcement, or the prosecuting attorney's office, or upon request of the department, law enforcement, or the prosecuting attorney's office pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation.

(5) A financial institution or employee of a financial institution participating in good faith in making a report or providing documentation or access to information to the department, law enforcement, or the prosecuting attorney's office under this chapter shall be immune from criminal, civil, or administrative liability.

[2010 c 133 § 5.]

74.34.300
Vulnerable adult fatality reviews.

(1) The department may conduct a vulnerable adult fatality review in the event of a death of a vulnerable adult when the department has reason to believe that the death of the vulnerable adult may be related to the abuse, abandonment, exploitation, or neglect of the vulnerable adult, or may be related to the vulnerable adult's self-neglect, and the vulnerable adult was:

(a) Receiving home and community-based services in his or her own home, described under chapters 74.39 and 74.39A RCW, within sixty days preceding his or her death; or

(b) Living in his or her own home and was the subject of a report under this chapter received by the department within twelve months preceding his or her death.

(2) When conducting a vulnerable adult fatality review of a person who had been receiving hospice care services before the person's death, the review shall provide particular consideration to the similarities between the signs and symptoms of abuse and those of many patients receiving hospice care services.

(3) All files, reports, records, communications, and working papers used or developed for purposes of a fatality review are confidential and not subject to disclosure pursuant to RCW 74.34.095.

(4) The department may adopt rules to implement this section.

[2008 c 146 § 10.]

NOTES:

Findings—Intent—Severability—2008 c 146: See notes following RCW 74.41.040.

74.34.305
Statement to vulnerable adults.

(1) When the department opens an investigation of a report of abandonment, abuse, financial exploitation, or neglect of a vulnerable adult, the department shall, at the time of the interview of the vulnerable adult who is an alleged victim, provide a written statement of the rights afforded under this chapter and other applicable law to alleged victims or legal guardians. This statement must include the department's name, address, and telephone number and may include other appropriate referrals. The statement must be substantially in the following form:

"You are entitled to be free from abandonment, abuse, financial exploitation, and neglect. If there is a reason to believe that you have experienced abandonment, abuse, financial exploitation, or neglect, you have the right to:

(a) Make a report to the department of social and health services and law enforcement and share any information you believe could be relevant to the investigation, and identify any persons you believe could have relevant information.

(b) Be free from retaliation for reporting or causing a report of abandonment, abuse, financial exploitation, or neglect.

(c) Be treated with dignity and addressed with respectful language.

(d) Reasonable accommodation for your disability when reporting, and during investigations and administrative proceedings.

(e) Request an order that prohibits anyone who has abandoned, abused, financially exploited, or neglected you from remaining in your home, having contact with you, or accessing your money or property.

(f) Receive from the department of social and health services information and appropriate referrals to other agencies that can advocate, investigate, or take action.

(g) Be informed of the status of investigations, proceedings, court actions, and outcomes by the agency that is handling any case in which you are a victim.

(h) Request referrals for advocacy or legal assistance to help with safety planning, investigations, and hearings.

(i) Complain to the department of social and health services, formally or informally, about investigations or proceedings, and receive a prompt response."

(2) This section shall not be construed to create any new cause of action or limit any existing remedy.
[2011 c 170 § 3.]

74.34.310
Service of process or filing fees prohibited—Certified copies.

A public agency may not charge a fee for filing or service of process to petitioners seeking relief under this chapter. Petitioners must be provided the necessary number of certified copies at no cost.
[2012 c 156 § 1.]

74.34.900
Severability—1984 c 97.

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

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[1984 c 97 § 18.]

74.34.901
Severability—1986 c 187.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.
[1986 c 187 § 12.]

74.34.902
Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.
[2009 c 521 § 181.]

Chapter 246-12 WAC

Last Update: 4/28/14

ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR CREDENTIALED HEALTH CARE PROVIDERS

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246-12-001
Purpose and scope.

The rules in this chapter are intended to ensure consistent application of administrative procedures and requirements for licensure, certification and registration of health care practitioners credentialed under the Uniform Disciplinary Act (RCW 18.130.040), except those credentialed under chapter 18.73 RCW (emergency medical services). Within the rules there are several references to additional requirements which may be unique to a profession. Examples are the renewal cycle, fees, continuing education or competency

requirements. Refer to individual profession's laws and rules for further guidance and information. Health profession laws and rules are available in public libraries and in publications by the department of health. [Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-001, filed 2/13/98, effective 3/16/98.]

246-12-010
Definitions.

(1) "Business": A business is an adult family home provider owned by a corporation regulated under chapter 18.48 RCW; a pharmaceutical firm regulated under chapter 18.64 RCW; or a nursing pool regulated under chapter 18.52C RCW; or a health care assistant regulated under chapter 18.135 RCW.

(2) "Credential": A credential is a license, certification, or registration issued to a person to practice a regulated health care profession. Whether the credential is a license, certification or registration is determined by the law regulating the profession.

(3) "Declaration": A declaration is a statement signed by the practitioner on a form provided by the department of health for verifying continuing education, AIDS training, or other requirements. When required, declarations must be completed and signed to be effective verification to the department.

(4) "Disciplinary suspension": The regulatory entity places the credential in disciplinary suspension status when there is a finding of unprofessional conduct. Refer to the Uniform Disciplinary Act (RCW 18.130.160).

(5) "Local organization for emergency services or management": Has the same meaning as that found in RCW 38.52.010.

(6) "Mandated suspension": The department of health places the credential in mandated suspension status when a law requires suspension of a credential under certain circumstances. This suspension is nondiscretionary for the department of health. Examples of mandated suspension are default on a student loan and failure to pay child support. The practitioner may not practice while on mandated suspension. The credential must be returned to active status before the practitioner may practice. See Part 6 of this chapter.

(7) "Practitioner": A practitioner is an individual health care provider listed under the Uniform Disciplinary Act, RCW 18.130.040.

(8) "Regulatory entities": A "regulatory entity" is a board, commission, or the secretary of the department of health designated as the authority to regulate one or more professions or occupations in this state. Practitioner health care practice acts and the Uniform Disciplinary Act (UDA) designate whether it is a board, commission, or the secretary of the department of health which has the authority to adopt rules, discipline health care providers, and determine requirements for initial licensure and continuing education requirements.

The regulatory entity determines whether disciplinary action should be taken on a credential for unprofessional conduct. These actions may include revocation, suspension, practice limitations or conditions upon the practitioner.

(9) "Renewal": Every credential requires renewal. The renewal cycle is either one, two, or three years, depending on the profession.

(10) "Secretary": The secretary is the secretary of the department of health or his or her designee.

(11) "Status": All credentials are subject to the Uniform Disciplinary Act (UDA) regardless of status. A credential status may be in any one of the following:

(a) Most credentials are in **"active"** status. These practitioners are authorized to practice the profession. These practitioners need to renew the credential each renewal cycle. See Part 2 of this chapter.

(b) The department of health places the credential in **"expired"** status if the credential is not renewed on time. While in expired status, the practitioner is not authorized to practice. Practice on an expired status is a violation of law and subject to disciplinary action. See Part 2 of this chapter.

(c) A practitioner may place the credential in **"inactive"** status if authorized by the regulatory entity. This means the practitioner is not practicing the profession. See Part 4 of this chapter.

(d) A practitioner may place the credential in **"inactive military-related"** status if he or she is a spouse or registered domestic partner of a member of the United States Armed Forces or the United States Public Health Service Commissioned Corps and the service member is deployed or stationed in a location outside of Washington state.

(e) A practitioner may place the credential in **"military"** status if he or she is a member of the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States.

(f) A practitioner may place the credential in **"retired active"** status if authorized by the regulatory entity. This means the practitioner can practice only intermittently or in emergencies. See Part 5 of this chapter.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-010, filed 4/28/14, effective 5/29/14. Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-010, filed 10/23/07, effective 12/1/07. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-010, filed 2/13/98, effective 3/16/98.]

246-12-020
How to obtain an initial credential.

(1) An initial credential for a practitioner is issued once all eligibility requirements are met.

(2) To obtain an initial credential, the practitioner must:

(a) Pay applicable application, examination and licensing fees;

(b) Submit an application on forms approved by the secretary;

(c) Submit supporting documentation required by the regulatory entity.

(3) The initial credential will expire on the practitioner's birthday, except for faculty or postgraduate education credentials authorized by law. Initial credentials issued within ninety days of the practitioner's birthday do not expire until the practitioner's next birthday.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-020, filed 2/13/98, effective 3/16/98.]

246-12-030
How to renew a credential.

(1) The expiration date for all credentials is the practitioner's birthday, except for faculty or postgraduate education credentials authorized by law.

(2) A credential period may be one or two years. To determine the renewal cycle, refer to the individual laws and rules pertaining to your profession.

(3) To renew a credential, the practitioner must:

(a) Pay the renewal fee;

(b) Pay the substance abuse monitoring surcharge, if required by the profession; and

(c) Provide written declarations or documentation, if required for the profession.

(4) Prior to the credential expiration date, courtesy renewal notices are mailed to the address on file. Practitioners should return the renewal notice when renewing their credential. Failure to receive a courtesy renewal notice does not relieve or exempt the credential renewal requirement.

(5) Renewal fees are accepted by the department no sooner than ninety days prior to the expiration date. [Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-030, filed 2/13/98, effective 3/16/98.]

246-12-040
How to return to active status when a credential has expired.

(1) The credential status is **expired** if the practitioner does not renew on or before the expiration date. The practitioner must not practice until the credential is returned to active status.

(2) Any renewal that is postmarked or presented to the department after midnight on the expiration date is late, and subject to a **late renewal penalty fee.** The late penalty fee will be waived if:

(a) The credential expires on a day the department is closed for business; and

(b) Payment is received at the department of health, health professions quality assurance main office on the next business day.

(3) A credential is returned to active status by complying with the following:

(a) Expired for one renewal cycle or less:

(i) Pay the late renewal penalty fee;

(ii) Pay the current renewal fee;

(iii) Pay the current substance abuse monitoring surcharge, if required by the profession;

(iv) Provide written declarations or documentation, if required for the profession; and

(v) Comply with current continuing education or continuing competency requirements if required by the profession.

(b) Expired for more than one renewal cycle but less than three years:

(i) Complete an abbreviated application form;

(ii) Pay the late renewal penalty fee;

(iii) Pay the current renewal fee;

(iv) Pay the current substance abuse monitoring surcharge, if required by the profession;

(v) Pay the expired credential reissuance fee;

(vi) Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practitioner's practice of the profession;

(vii) Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of or to avoid formal action;

(viii) Provide a written declaration that continuing education and competency requirements for the two most recent years have been met, if required for the profession to maintain an active credential; and

(ix) Provide other written declarations or documentation, if required for the profession.

(c) Expired for over three years:

(i) Complete an abbreviated application form;

(ii) Pay the late renewal penalty fee;

(iii) Pay the current renewal fee;

(iv) Pay the current substance abuse monitoring surcharge, if required by the profession;

(v) Pay the expired credential reissuance fee;

(vi) Satisfy other competency requirements of the regulatory entity, if required;

(vii) Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practitioner's practice of the profession;

(viii) Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of or to avoid formal action;

(ix) Provide a written declaration that continuing education or competency requirements for the two most recent years have been met, if required for the profession to maintain an active credential;

(x) Provide other written declarations or documentation, if required for the profession; and

(xi) If not previously provided, provide proof of AIDS education as required for the profession and in Part 8 of this chapter.

[Statutory Authority: RCW 43.70.280. WSR 03-19-136, § 246-12-040, filed 9/17/03, effective 10/18/03; WSR 98-05-060, § 246-12-040, filed 2/13/98, effective 3/16/98.]

246-12-050

How to obtain a temporary practice permit—National background check.

Fingerprint-based national background checks may cause a delay in licensing. Individuals who satisfy all other licensing requirements and qualifications may receive a temporary practice permit while the national background check is completed. This section applies to any profession listed in RCW 18.130.040 (2)(a) that does not currently issue a temporary practice permit under the profession's specific statute or rule, unless the profession prohibits temporary practice permits by statute or rule.

(1) A temporary practice permit may be issued to an applicant who:

(a) Holds an unrestricted, active license in another state that has substantially equivalent licensing standards for the same profession to those in Washington;

(b) Is not subject to denial of a license or issuance of a conditional or restricted license; and

(c) Does not have a criminal record in Washington.

(2) A temporary practice permit grants the individual the full scope of practice for the profession.

(3) A temporary practice permit will not be renewed, reissued, or extended. A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on application is mailed to the applicant, unless the notice of decision on application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit the necessary application, fee(s), and documentation for the license;

(b) Meet all requirements and qualifications for the license, except the results from a fingerprint-based national background check, if required;

(c) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards for the profession in Washington; and

(d) Submit the fingerprint card and a written request for a temporary practice permit when the department notifies the applicant the national background check is required.

[Statutory Authority: RCW 43.70.040. WSR 13-09-061, § 246-12-050, filed 4/16/13, effective 5/17/13. Statutory Authority: RCW 18.130.064 and 18.130.075. WSR 09-23-082, § 246-12-050, filed 11/16/09, effective 12/17/09.]

ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR CREDENTIALED HEALTH CARE PROVIDERS

246-12-051
How to obtain a temporary practice permit—Military spouse.

A military spouse or state registered domestic partner of a military person may receive a temporary practice permit while completing any specific additional requirements that are not related to training or practice standards for the profession. This section applies to any profession listed in RCW 18.130.040 (2)(a).

(1) A temporary practice permit may be issued to an applicant who is a military spouse or state registered domestic partner of a military person and:

(a) Is moving to Washington as a result of the military person's transfer to Washington;

(b) Left employment in another state to accompany the military person to Washington;

(c) Holds an unrestricted, active license in another state that has substantially equivalent licensing standards for the same profession to those in Washington; and

(d) Is not subject to any pending investigation, charges, or disciplinary action by the regulatory body of the other state or states.

(2) A temporary practice permit grants the individual the full scope of practice for the profession.

(3) A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision on the application specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(4) To receive a temporary practice permit, the applicant must:

(a) Submit the necessary application, fee(s), fingerprint card if required, and documentation for the license;

(b) Attest on the application that he/she left employment in another state to accompany the military person;

(c) Meet all requirements and qualifications for the license that are specific to the training, education, and practice standards for the profession;

(d) Provide verification of having an active unrestricted license in the same profession from another state that has substantially equivalent licensing standards for the profession in Washington;

(e) Submit a copy of the military person's orders and a copy of:

(i) The military-issued identification card showing the military person's information and the applicant's relationship to the military person;

(ii) A marriage license; or

(iii) A state registered domestic partnership; and

(f) Submit a written request for a temporary practice permit.

(5) For the purposes of this section:

(a) "Military spouse" means the husband, wife, or registered domestic partner of a military person.

(b) "Military person" means a person serving in the United States armed forces, the United States public health service commissioned corps, or the merchant marine of the United States.

[Statutory Authority: RCW 43.70.040, 18.130.040, 1.12.080, and 2011 2nd sp.s. c 5. WSR 12-24-014, § 246-12-051, filed 11/27/12, effective 12/28/12.]

246-12-060
How to obtain an initial business credential.

An initial credential for a business is issued once all eligibility requirements are met. To obtain an initial credential, the business must:

(1) Pay all applicable application and license fees;

(2) Submit an application on forms approved by the secretary;

(3) Submit supporting documentation required by the regulatory entity.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-060, filed 2/13/98, effective 3/16/98.]

246-12-070
How to renew a business credential.

(1) A business expires on a date determined by the regulatory entity.

(2) A credential period may be one or two years. Refer to the profession laws and rules to determine the renewal cycle and expiration date.

(3) To renew a credential the business must:

(a) Pay the renewal fee; and

(b) Provide written declarations or documentation, if required for the profession.

(4) Prior to the credential expiration date, courtesy renewal notices are mailed to the address on file. Businesses should return the renewal notice when renewing their credential. Failure to receive a courtesy renewal notice does not relieve or exempt the credential renewal requirement.

(5) Renewal fees are accepted by the department within ninety days prior to the expiration date.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-070, filed 2/13/98, effective 3/16/98.]

246-12-080
When a business credential expires.

(1) The business credential expires if the credential is not renewed on or before the expiration date. The business must not open for business or otherwise operate until the credential is renewed.

(2) A business credential is renewed by complying with the following:

(a) Expired for three years or less:

(i) Pay the late renewal penalty fee;

(ii) Pay the current renewal fee for each renewal cycle where the credential was expired; and

(iii) Provide written declarations or documentation, if required for the profession.

(b) Expired more than three years:

(i) Comply with the qualifications and procedures for initial credentialing; and

(ii) Pay initial credentialing fee.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-080, filed 2/13/98, effective 3/16/98.]

ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR CREDENTIALED HEALTH CARE PROVIDERS

246-12-090
How to obtain an inactive credential for nonmilitary practitioners.

Except as provided in Part 13 of this chapter for military and military-related status, a practitioner may obtain an inactive credential if authorized by the regulatory entity. Refer to the profession rules to determine if this status is available.

(1) Except as provided in Part 13 of this chapter for military and military-related status, a practitioner may apply for an inactive credential if he or she meets the following criteria:

(a) Holds an active Washington state credential;

(b) Is in good standing; and

(c) Will not practice in Washington.

(2) To obtain an inactive credential, the practitioner must notify the department of health in writing of the intent to obtain an inactive credential.

(3) The practitioner may obtain an inactive credential at any time the criteria in subsection (1) of this section are met. The fee for the initial inactive credential will be due when the active credential expires. Portions of the current renewal fee will not be prorated or refunded for the remaining active renewal cycle.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-090, filed 4/28/14, effective 5/29/14. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-090, filed 2/13/98, effective 3/16/98.]

246-12-100
How to renew an inactive credential for nonmilitary practitioners.

(1) The expiration for all credentials is the practitioner's birthday. Except as provided in Part 13 of this chapter for military and military-related status, to renew an inactive credential, the practitioner must:

(a) Pay the inactive credential renewal fee; and

(b) Pay the substance abuse monitoring surcharge, if required by the profession.

(2) To determine the renewal cycle, refer to the individual laws and rules pertaining to your profession.

(3) Inactive credential renewal fees are accepted by the department no sooner than ninety days prior to the expiration date.

(4) Prior to the inactive credential expiration date, courtesy renewal notices are mailed to the address on file. Practitioners should return the renewal notice when renewing their credential. Failure to receive a courtesy renewal notice does not relieve or exempt the inactive credential renewal requirement.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-100, filed 4/28/14, effective 5/29/14. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-100, filed 2/13/98, effective 3/16/98.]

246-12-110
How to return to active status from inactive status for nonmilitary practitioners.

Except as provided in Part 13 of this chapter for military and military-related status, to change an inactive credential to an active credential status the practitioner must:

(1) Notify the department in writing of the change;

(2) Pay the appropriate current active renewal fee;

(3) Pay the current substance abuse monitoring surcharge, if required by the profession;

(4) Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practitioner's practice of the profession;

(5) Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of or to avoid formal action;

(6) Provide a written declaration that continuing education and competency requirements for the two most recent years have been met, if required for the profession;

(7) Provide other written declarations or documentation, if required for the profession;

(8) Satisfy other competency requirements of the regulatory entity; if required; and

(9) If not previously provided, provide proof of AIDS education as required for the profession and in Part 8 of this chapter.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-110, filed 4/28/14, effective 5/29/14. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-110, filed 2/13/98, effective 3/16/98.]

246-12-120
How to obtain a retired active credential.

A practitioner may obtain a retired active status credential if authorized by the regulatory entity. Refer to the profession rules to determine if this status is available.

(1) To obtain a retired active credential the practitioner must submit a letter notifying the department of health of the intent to practice only on an intermittent or emergency basis.

(2) A practitioner may apply for a retired active credential (refer to RCW 18.130.250) if he or she meets the following criteria:

(a) Holds an active Washington state credential;

(b) Is in good standing; and either

(c) Will practice no more than ninety days each year in Washington state; or

(d) Will practice only in emergency circumstances such as earthquakes, floods, times of declared war or other states of emergency.

(3) The practitioner may obtain a retired active credential at any time the criteria in subsection (2) of this section are met. The fee for the initial retired active credential will be due when the active credential expires. Portions of the current renewal fee will not be prorated or refunded for the remaining active renewal cycle.

(4) The profession may define specific practice settings in which services may be provided. Refer to the laws and rules of the profession to determine if specific practice settings are identified.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-120, filed 2/13/98, effective 3/16/98.]

ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR CREDENTIALED HEALTH CARE PROVIDERS

246-12-130
How to renew a retired active credential.

(1) The expiration for all credentials is the practitioner's birthday. To determine the renewal cycle, refer to the individual laws and rules pertaining to your profession.

(2) To renew a retired active credential, the practitioner must:

(a) Pay the retired active credential renewal fee;

(b) Pay the substance abuse monitoring surcharge, if required by the profession;

(c) Provide a written declaration stating that he or she practiced only intermittently or in an emergency during the previous renewal cycle;

(d) Provide a written declaration stating that continuing education or competency requirements have been met, if required for the profession; and

(e) Provide other written declarations or documentation, if required for the profession.

(3) Retired active credential renewal fees are accepted by the department no sooner than ninety days prior to the expiration date.

(4) Prior to the retired active credential expiration date, courtesy renewal notices are mailed to the address on file. Practitioners should return the renewal notice when renewing their credential. Failure to receive a courtesy renewal notice does not relieve or exempt the retired active credential renewal requirement.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-130, filed 2/13/98, effective 3/16/98.]

246-12-140
How to return to active status from retired active status.

To change a retired active credential to an active credential status the practitioner must:

(1) Notify the department in writing of the change;

(2) Pay the appropriate current active renewal fee;

(3) Pay the current substance abuse monitoring surcharge, if required by the profession.

(4) Provide a written declaration that no action has been taken by a state or federal jurisdiction or hospital which would prevent or restrict the practitioner's practice of the profession;

(5) Provide a written declaration that he or she has not voluntarily given up any credential or privilege or has not been restricted in the practice of the profession in lieu of or to avoid formal action;

(6) Provide a written declaration that continuing education and competency requirements have been met, if required for the profession;

(7) Provide other written declarations or documentation, if required for the profession;

(8) Satisfy other competency requirements of the regulatory entity, if required; and

(9) If not previously provided, provide proof of AIDS education as required for the profession and in Part 8 of this chapter.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-140, filed 2/13/98, effective 3/16/98.]

246-12-160
How to return to active status following a mandated suspension.

(1) The department of health places the credential in mandated suspension status when a law requires suspension of a credential under certain circumstances. This suspension is not discretionary for the department of health. Examples of mandated suspension are default on a student loan and failure to pay child support. The practitioner may not practice while on mandated suspension. The credential must be returned to active status before the practitioner may practice.

(2) A credential is returned to active status by complying with the following:

(a) Meet all the requirements outlined in the order mandating the suspension;

(b) Pay the current renewal fee, if due;

(c) Pay the substance abuse monitoring surcharge if required by the profession;

(d) Pay a "return from mandated suspension fee" of two hundred forty-five dollars. Standard renewal fees are not required during the period of the suspension;

(e) Provide written declaration that all continuing education and competency requirements for the entire suspension period have been met, if required by the profession;

(f) Provide other written declarations or documentation, if required for the profession; and

(g) If the mandated suspension was for more than three years the practitioner must also comply with any specific requirements identified in rule by that profession's regulatory entity.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-160, filed 2/13/98, effective 3/16/98.]

246-12-165
How to return to active status following a disciplinary suspension.

(1) The regulatory entity may place a credential on disciplinary suspension when there is a finding of unprofessional conduct. The practitioner may not practice while on suspension unless the suspension is stayed. The credential must be returned to active status before the practitioner may practice.

(2) A credential is returned to active status by complying with the following:

(a) Meet all the requirements outlined in the disciplinary order;

(b) Pay the current renewal fee, if due. Standard renewal fees are not required during the period of the suspension unless the suspension is stayed;

(c) Pay the substance abuse monitoring surcharge if required by the profession;

(d) Provide written declaration that all continuing education and competency requirements for the entire suspension period have been met, if required by the profession; and

(e) Provide other written declarations or documentation, if required for the profession.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-165, filed 2/13/98, effective 3/16/98.]

246-12-170
When is continuing education required?

Continuing education is required for renewal of a credential only if authorized in law. The regulatory entity defines the continuing education requirements. Practitioners should refer to the laws and rules relating to their profession to determine if continuing education is required.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-170, filed 2/13/98, effective 3/16/98.]

246-12-180
How to prove compliance.

If continuing education is required for renewal, the practitioner must verify compliance by submitting a signed declaration of compliance.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-180, filed 2/13/98, effective 3/16/98.]

246-12-190
Auditing for compliance.

Up to twenty-five percent of the practitioners are randomly audited for continuing education compliance after the credential is renewed. It is the practitioner's responsibility to submit documentation of completed continuing education activities at the time of the audit. Failure to comply with the audit documentation request or failure to supply acceptable documentation within sixty days may result in disciplinary action.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-190, filed 2/13/98, effective 3/16/98.]

246-12-200
What is acceptable audit documentation?

Practitioners must:
(1) Prove compliance which may include course or program certificates of training or transcripts. Refer to the rules of your profession for more specific guidance.
(2) Keep records for four years documenting attendance description of learning.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-200, filed 2/13/98, effective 3/16/98.]

246-12-210
When is a practitioner exempt from continuing education?

A practitioner may be excused from or granted an extension of continuing education requirements due to illness or other extenuating circumstances. The profession's regulatory entity determines when the requirements may be waived or may grant an extension.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-210, filed 2/13/98, effective 3/16/98.]

246-12-220
How credit hours for continuing education courses are determined.

A credit hour is defined as time actually spent in a course or other activities as determined by the regulatory entity as fulfilling continuing education requirements. A credit hour for time actually spent in a course can not be less than fifty minutes.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-220, filed 2/13/98, effective 3/16/98.]

246-12-230
Carrying over of continuing education credits.

Continuing education hours in excess of the required hours earned in a reporting period cannot be carried forward to the next reporting cycle.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-230, filed 2/13/98, effective 3/16/98.]

246-12-240
Taking the same course more than once during a reporting cycle.

The same course taken more than once during a reporting cycle will only be counted once.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-240, filed 2/13/98, effective 3/16/98.]

246-12-250
Definitions.

(1) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.
(2) "Office on AIDS" means that section with the department of health or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-250, filed 2/13/98, effective 3/16/98.]

246-12-260
Who must obtain AIDS education?

All practitioners must demonstrate completion of four or seven clock hours of AIDS education prior to initially obtaining a health care credential. Refer to the specific profession rules to determine the number of hours of AIDS education and training that are required.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-260, filed 2/13/98, effective 3/16/98.]

246-12-270
Acceptable AIDS education and training.

(1) The regulatory entity will accept education and training that is consistent with the model curriculum available from the office on AIDS.
(2) AIDS education and training must include, but is not limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-270, filed 2/13/98, effective 3/16/98.]

246-12-280
What is acceptable documentation?

Practitioners must:
(1) Provide a written declaration that the minimum education and training has been completed;
(2) Keep records for two years documenting training and description of learning; and
(3) Be prepared to validate, through submission of these records, that training has taken place.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-280, filed 2/13/98, effective 3/16/98.]

246-12-290
How to obtain a duplicate credential or wall certificate.

Practitioners may obtain a duplicate credential or wall certificate by providing a written request and paying a fee established by the secretary.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-290, filed 2/13/98, effective 3/16/98.]

246-12-300
Name changes.

It is the responsibility of each practitioner to maintain his or her correct name on file with the department. Requests for name changes must be submitted in writing along with acceptable documentation. Acceptable documentation includes a copy of a marriage certificate, divorce decree or court order of legal name change.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-300, filed 2/13/98, effective 3/16/98.]

246-12-310
Address changes.

It is the responsibility of each practitioner to maintain his or her current address on file with the department. Requests for address changes may be made either by telephone or in writing. The mailing address on file with the department will be used for mailing of all official matters to the practitioner.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-310, filed 2/13/98, effective 3/16/98.]

246-12-320
Other information.

Refer to WAC 246-01-100 and 246-11-060 for more information on maintaining a current address with the department.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-320, filed 2/13/98, effective 3/16/98.]

246-12-330
General information.

The costs of health care professional credentialing programs must be fully supported by members of that profession. The amount of all fees are established by the secretary and set by rule. Fees can be found in rules pertaining to each profession.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-330, filed 2/13/98, effective 3/16/98.]

246-12-340
Refund of fees.

Fees submitted with applications for initial credentialing, examinations, renewal, and other fees associated with the licensing and regulation of the profession are nonrefundable.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-340, filed 2/13/98, effective 3/16/98.]

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246-12-350
Making payments.

(1) Make checks or money orders payable to the department of health.
(2) Practitioners should include their credential number on the check, draft or money order.
(3) Applicants should include profession for which they are applying on the check, draft or money order.
(4) Send check, draft or money order to:
Department of Health
P.O. Box 1099
Olympia, Washington 98507-1099
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-350, filed 2/13/98, effective 3/16/98.]

246-12-360
Other information.

Refer to RCW 43.70.250, 43.70.320 and WAC 246-08-560 for more information relating to fees and refunds.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-12-360, filed 2/13/98, effective 3/16/98.]

246-12-400
Who qualifies for an initial retired volunteer medical worker license?

(1) To be eligible for a retired volunteer medical worker license, a person must:
(a) Have held a license issued by a disciplining authority under RCW 18.130.040 that was in active status within the ten years prior to an initial application for a retired volunteer medical worker license;
(b) Have no restrictions on their ability to obtain an active license; and
(c) Be currently registered as a volunteer emergency worker with a local organization for emergency services or management.
(2) A person is not eligible for a retired volunteer medical worker license if they hold any current license issued by a disciplining authority under RCW 18.130.040.
[Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-400, filed 10/23/07, effective 12/1/07.]

246-12-410
How to obtain an initial retired volunteer medical worker license.

(1) To obtain an initial retired volunteer medical worker license, a person must:
(a) Meet the requirements in WAC 246-12-400;
(b) Submit an application on forms approved by the secretary; and
(c) Submit proof of current registration as a volunteer emergency worker with a local organization for emergency services or management.
(2) There is no application fee.
(3) The retired volunteer medical worker's initial license expires on the person's third birthday after issuance and may be renewed as provided in WAC 246-12-430.
[Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-410, filed 10/23/07, effective 12/1/07.]

246-12-420
When can you practice and what can you do?

(1) A retired volunteer medical worker can practice only when:
(a) There is a declared emergency, disaster, or authorized training event that has been given a mission number by the department of emergency management; and
(b) The local organization for emergency services or management, or designee, has activated the retired volunteer medical worker.
(2) A retired volunteer medical worker can only:
(a) Work the duties assigned;
(b) Work up to, but not exceed the scope of practice under their prior active license; and
(c) Work under an assigned supervisor.
(3) A health care facility is not obligated to use any retired volunteer medical worker.
[Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-420, filed 10/23/07, effective 12/1/07.]

246-12-430
How to renew your retired volunteer medical worker license.

(1) To renew a retired volunteer medical worker license, you must:
(a) Submit a written declaration stating you have met the continuing competency requirements defined in WAC 246-12-440; and
(b) Submit proof of current registration as a volunteer with a local organization for emergency services or management.
(2) There is no renewal fee.
(3) A retired volunteer medical worker license must be renewed every three years.
(4) Prior to the expiration date, courtesy renewal notices are mailed to the address on file. Practitioners should return the renewal notice when renewing their license. Failure to receive a courtesy renewal notice does not relieve or exempt the retired volunteer medical worker license renewal requirement.

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[Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-430, filed 10/23/07, effective 12/1/07.]

246-12-440
Continuing competency.

(1) A retired volunteer medical worker must complete the following requirements every three years to renew their license:
(a) Basic first-aid course;
(b) Bloodborne pathogens course; and
(c) CPR course.
(2) A retired volunteer medical worker must submit a signed declaration to verify they meet the continuing competency education requirements.
(3) Local organizations for emergency services or management that register retired volunteer medical workers may require additional training, such as incident command system (ICS) or national incident management system (NIMS).
[Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-440, filed 10/23/07, effective 12/1/07.]

246-12-450
How to return to active status.

A licensed retired volunteer medical worker may return to active status as provided in WAC 246-12-040.
[Statutory Authority: RCW 18.130.050 and 18.130.360. WSR 07-21-133, § 246-12-450, filed 10/23/07, effective 12/1/07.]

246-12-500
Who can obtain a military status or military-related status credential.

(1) A practitioner who is a member of the United States Armed Forces, the United States Public Health Service Commissioned Corps, or the Merchant Marine of the United States may obtain a military status credential if his or her credential is valid and in force and effect.
(2) A practitioner who is the spouse or registered domestic partner of member of the United States Armed Forces or the United States Public Health Service Commissioned Corps who is deployed or stationed in a

location outside of Washington state may request that his or her credential be placed in inactive military-related status if the credential is valid and in force and effect.

(3) A credential is valid and in force and effect if it is active and in good standing. "In good standing" means the credential is not currently subject to any sanction, terms, conditions or restrictions required by formal or informal discipline or an agreement to practice with conditions under chapter 18.130 RCW, the Uniform Disciplinary Act.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-500, filed 4/28/14, effective 5/29/14.]

246-12-510
How to obtain a military status credential.

(1) To obtain a military status credential the practitioner must submit a written request notifying the department of the intent to obtain a military status credential.

(2) A practitioner may obtain a military status credential if he or she:

(a) Holds an active Washington state credential that is valid and in force and effect; and

(b) Submits to the department an official copy of service orders verifying that he or she is a member of the armed forces or other services described in WAC 246-12-500(1).

(3) The practitioner may obtain a military status credential at any time the criteria in subsection (2) of this section are met. There is no fee due for military status. Portions of the current renewal fee will not be prorated or refunded.

(4) A military status credential remains in full force and effect so long as service continues and allows practice throughout the state of Washington unless sooner suspended or revoked by the regulatory entity.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-510, filed 4/28/14, effective 5/29/14.]

246-12-520
How to maintain a military status credential.

(1) The expiration date for all credentials is the practitioner's birthday, except for faculty, postgraduate education, associate, or trainee credentials authorized by law.

(2) As long as a practitioner's military service continues, the practitioner is not required to renew his or her credential, but should maintain the credential in military status. To maintain a military status credential, the practitioner should submit to the department an official copy of service orders verifying that he or she is an active duty member of the United States Armed Forces, the United States Public Health Services Commissioned Corps, or the Merchant Marine of the United States.

(3) The department will mail courtesy maintenance notices to the practitioner's address on file using credential renewal cycles.

(4) A practitioner should return the courtesy maintenance notice to the department with an official copy of their service orders.

(5) Military status credential maintenance requests are accepted by the department no sooner than ninety days prior to the date the credential would expire if not in military status.

(6) Continuing education is not required while the credential is in military status.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-520, filed 4/28/14, effective 5/29/14.]

ADMINISTRATIVE PROCEDURES AND REQUIREMENTS FOR CREDENTIALED HEALTH CARE PROVIDERS

246-12-530
How to return to active status from military status.

(1) To change the status of a credential from military status to active status, the practitioner must submit to the department:

(a) Written notification of the change in his or her service status;

(b) An official copy of the practitioner's discharge papers (DD214);

(c) The appropriate current active renewal fee;

(d) The current substance abuse monitoring surcharge, if required by the profession as part of the renewal fee.

(2) The practitioner must request the military status credential be changed from military status to active status within six months of honorable discharge by meeting the requirements of subsection (1) of this section.

(3) A practitioner who does not comply with subsection (2) of this section will be subject to late fees as required by WAC 246-12-040.

(4) Continuing education requirements will apply after the first post-discharge renewal.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-530, filed 4/28/14, effective 5/29/14.]

246-12-540
How to obtain an inactive military-related status credential.

A person is military related if he or she is the spouse or registered domestic partner of a service member in the United States Armed Forces or United States Public Health Services Commissioned Corps.

(1) To obtain an inactive military-related status credential the practitioner must:

(a) Submit a written request that the department place his or her credential in inactive military-related status;

(b) Hold an active Washington state credential that is valid and in force and effect;

(c) Submit to the department an official copy of service orders verifying that his or her spouse or registered domestic partner is a member of the service described in WAC 246-12-500(2) and has been deployed or stationed in a location outside of Washington state;

(d) Submit a copy of his or her marriage certificate or certificate of registered domestic partnership.

(2) There is no fee due for placing a credential in inactive military-related status. Portions of the current renewal fee will not be prorated or refunded.

(3) The practitioner may not practice in the state of Washington when his or her credential is in inactive military-related status.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-540, filed 4/28/14, effective 5/29/14.]

246-12-550
How to maintain an inactive military-related status credential.

The expiration date for all credentials is the practitioner's birthday, except for faculty, postgraduate education, associate, or trainee credentials authorized by law.

(1) The practitioner may maintain a credential in inactive military-related status for as long as his or her spouse or registered domestic partner continues to be stationed or deployed in a location outside of the state of Washington and he or she remains married to or in a registered domestic partnership with that person.

(2) To maintain an inactive military-related status credential, the practitioner should submit to the department an official copy of service orders verifying that his or her spouse or registered domestic partner continues to be deployed or stationed in a location outside of Washington state.

(3) The department will mail courtesy maintenance notices to the practitioner's address on file using credential renewal cycles.

(4) Inactive military-related status credential maintenance requests are accepted by the department no sooner than ninety days prior to the date the credential would expire if not in inactive military-related status.

(5) Continuing education is not required while the credential is in an inactive military-related status.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-550, filed 4/28/14, effective 5/29/14.]

246-12-560
How to return to active status from inactive military-related status.

(1) A practitioner in inactive military-related status can return his or her credential to active status at any time.

(2) To change a credential from an inactive military-related status to active status the practitioner must:

(a) Pay the appropriate current active renewal fee;

(b) Pay the current substance abuse monitoring surcharge, if required by the profession as part of renewal;

(c) Submit documentation of the service member's current service or discharge status.

(3) If the practitioner requests a change to active status after his or her spouse or registered domestic partner is discharged, he or she must submit an official copy of the discharge papers (DD214) showing that his or her spouse or registered domestic partner was honorably discharged within the previous six months.

(4) The credential must be changed from inactive military-related status to active status within six months of the military personnel's honorable discharge by meeting the requirements of subsections (2) and (3) of this section.

(5) A practitioner who does not comply with subsection (3) of this section will be subject to late fees as required by WAC 246-12-040.

(6) After returning a credential to active status, applicable continuing education requirements will apply during the following renewal.

[Statutory Authority: RCW 43.70.270(3). WSR 14-10-025, § 246-12-560, filed 4/28/14, effective 5/29/14.]

Chapter 246-15 WAC

Last Update: 3/27/14

WHISTLEBLOWER COMPLAINTS IN HEALTH CARE SETTINGS

WAC Sections

246-15-001	Purpose and scope.
246-15-010	Definitions.
246-15-020	Rights and responsibilities—Whistleblower and department.
246-15-030	Procedures for filing, investigation, and resolution of whistleblower complaints.

246-15-001
Purpose and scope.

Regulations for whistleblower protection are hereby adopted pursuant to RCW 43.70.075. The purpose of these regulations is to protect the identity of persons who communicate in good faith to the department alleging the improper quality of care by a health care facility or provider as defined in this chapter, and set forth the process the department will use in receiving, investigating and resolving complaints.

[Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-001, filed 12/20/96, effective 1/20/97.]

246-15-010
Definitions.

The words and phrases in this chapter have the following meanings unless the context clearly indicates otherwise.

(1) "Consumer" means:

(a) An individual receiving health care or services from a health care facility or health care professional;

(b) A person pursuant to RCW 7.70.065 authorized to provide informed consent to health care on behalf of (a) of this subsection who is not competent to consent.

(2) "Department" means the Washington state department of health.

(3) "Employee" means an individual employed by a health care facility or health care professional at the time the:

(a) Alleged improper quality of care occurred; or

(b) Alleged improper quality of care is discovered.

(4) "Good faith" means an honest and reasonable belief in the truth of the allegation.

(5) "Health care" means any care, service, or procedure provided by a health care facility or a health care provider:

(a) To diagnose, treat, or maintain a patient's physical or mental condition; or

(b) That affects the structure or function of the human body.

(6) "Health care facility" includes the following:

(a) Adult residential rehabilitation centers regulated pursuant to chapter 71.12 RCW;

(b) Alcoholism treatment facilities regulated pursuant to chapter 71.12 RCW;

(c) Alcoholism hospitals regulated pursuant to chapter 71.12 RCW;

(d) Ambulance and aid services regulated pursuant to chapter 18.73 RCW;

(e) Assisted living facilities regulated pursuant to chapter 18.20 RCW;

(f) Childbirth centers regulated pursuant to chapter 18.46 RCW;

(g) Home care agencies regulated pursuant to chapter 70.127 RCW;

(h) Home health agencies regulated pursuant to chapter 70.127 RCW;

(i) Hospice agencies regulated pursuant to chapter 70.127 RCW;

(j) Hospitals regulated pursuant to chapter 70.41 RCW;

(k) Pharmacies regulated pursuant to chapter 18.64 RCW;

(l) Private psychiatric hospitals regulated pursuant to chapter 71.12 RCW;

(m) Residential treatment facilities for psychiatrically impaired children and youth regulated pursuant to chapter 71.12 RCW;

(n) Rural health care facilities regulated pursuant to chapter 70.175 RCW.

(7) "Health care provider," "health care professional," "professional" or "provider" mean a person who is licensed, certified, registered or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(8) "Improper quality of care," as defined in RCW 43.70.075, means any practice, procedure, action, or failure to act that violates any state law or rule of the applicable state health licensing authority under Title 18 RCW or chapters 70.41, 70.96A, 70.127, 70.175, 71.05, 71.12, and 71.24 RCW, and enforced by the department of health. Improper quality of care shall not include good faith personnel actions related to employee performance or actions taken

according to established terms and conditions of employment. Good faith personnel action will not prevent investigations of alleged improper quality of care.

(9) "Whistleblower" means a consumer, employee, or health care professional who in good faith reports alleged quality of care concerns to the department of health.

[Statutory Authority: RCW 43.70.075 and 2012 c 10. WSR 14-08-046, § 246-15-010, filed 3/27/14, effective 4/27/14. Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-010, filed 12/20/96, effective 1/20/97.]

246-15-020
Rights and responsibilities—Whistleblower and department.

(1) A person who in good faith communicates a complaint or information as defined in this chapter as provided in RCW 43.70.075 is:

(a) Immune from civil liability on claims based upon that communication to the department under RCW 4.24.510;

(b) Entitled to recover costs and reasonable attorneys' fees incurred in establishing a defense under RCW 4.24.510 if prevailing upon the defense; and

(c) Afforded the protections and remedies of the human rights commission pursuant to chapter 49.60 RCW. The department will refer whistleblowers expressing concern about reprisal or retaliatory action to the human rights commission.

(2) The department will protect the identity of the whistleblower by revealing it only:

(a) To appropriate department staff or disciplining authority member;

(b) By court order; or

(c) If the complaint is not in good faith.

[Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-020, filed 12/20/96, effective 1/20/97.]

246-15-030
Procedures for filing, investigation, and resolution of whistleblower complaints.

Chapter 246-15 WAC

Last Update: 3/27/14

WHISTLEBLOWER COMPLAINTS IN HEALTH CARE SETTINGS

In filing, investigating and resolving a whistleblower complaint, the department will follow its usual procedures for complaint processing while protecting a whistleblower's identity consistent with WAC 246-15-020.

(1) Filing.

(a) Upon receipt of a complaint from a whistleblower alleging improper quality of care, department staff will enter the complaint into the tracking system for complaints against health care providers or facilities and create a file on that complaint.

(b) Staff will affix a permanent cover to the letter of complaint, or other form of notice, in the complaint file, noting the statutory citation for protection of identity of the complainant.

(c) Staff will assess priority of the case and conduct the initial case planning based on the complainant information.

(2) Investigation.

(a) For cases assigned to an investigation, staff will develop an investigative plan. The investigator will gather pertinent information and perform other functions as appropriate to the allegation. The investigator may interview witnesses or others with information relevant to the investigation, review records and consult with staff of other agencies.

(b) At the conclusion of the investigation, the investigator will prepare the necessary documents, such as an investigative report summarizing the findings, and other documents necessary for the department to take further action.

(3) Resolution. The regulatory authority for the health facility or provider will:

(a) Review investigative findings to determine violation of any statutes or rules;

(b) Take appropriate disciplinary action as necessary;

(c) Ensure upon case closure, that the permanent cover affixed in subsection (1)(c) of this section will remain;

(d) Will code or obliterate references to the whistleblower complainant in investigative materials or in the investigative report as necessary to protect the whistleblower's identity prior to any public disclosure; and

(e) Make the case file available to the public upon case closure, subject to public disclosure and other relevant laws.

[Statutory Authority: RCW 43.70.075 and 43.70.040. WSR 97-02-013, § 246-15-030, filed 12/20/96, effective 1/20/97.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

WAC Sections

246-16-010	Purpose of chapter.
246-16-020	Definitions.
	SEXUAL MISCONDUCT
246-16-100	Sexual misconduct.
	MANDATORY REPORTING
246-16-200	Mandatory reporting—Intent.
246-16-210	Mandatory reporting—Definitions.
246-16-220	Mandatory reporting—How and when to report.
246-16-230	Mandatory reporting—License holder self reports.
246-16-235	Mandatory reporting—License holder reporting other license holders.
246-16-240	Mandatory reporting—Reports by professional liability insurance carriers.
246-16-245	Mandatory reporting—Reports by health care institutions.
246-16-250	Mandatory reporting—Reports by health service contractors and disability insurers.
246-16-255	Mandatory reporting—Reports by professional review organizations.
246-16-260	Mandatory reporting—Reports by courts.
246-16-265	Mandatory reporting—Reports by state and federal agencies.
246-16-270	Mandatory reporting—Reports by employers of license holders.
	SANCTIONS
246-16-800	Sanctions—General provisions.
246-16-810	Sanction schedule—Practice below standard of care.
246-16-820	Sanction schedule—Sexual misconduct or contact.
246-16-830	Sanction schedule—Abuse—Physical and emotional.
246-16-840	Sanction schedule—Diversion of controlled substances or legend drugs.
246-16-850	Sanction schedule—Substance abuse.
246-16-860	Sanction schedule—Criminal convictions.
246-16-890	Sanctions—Aggravating and mitigating factors.

246-16-010
Purpose of chapter.

The rules in this chapter define certain acts of unprofessional conduct for health care providers under the jurisdiction of the secretary of the department of health as provided in RCW 18.130.040 (2)(a) including persons licensed or certified by the secretary under chapter 18.73 RCW or RCW 18.71.205. The rules also provide for sanctions. The secretary may adopt rules applicable to specific professions under RCW 18.130.040(2). These rules also serve as model rules for the disciplining authorities listed in RCW 18.130.040 (2)(b).

[Statutory Authority: RCW 18.130.050 (1), (12) and 18.130.180. WSR 06-18-045, § 246-16-010, filed 8/30/06, effective 9/30/06.]

246-16-020
Definitions.

(1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed in a profession listed in RCW 18.130.040 (2)(a).

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the health care provider.

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

[Statutory Authority: RCW 18.130.050 (1), (12) and 18.130.180. WSR 06-18-045, § 246-16-020, filed 8/30/06, effective 9/30/06.]

246-16-100
Sexual misconduct.

(1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(i) Dressing or undressing in the presence of the patient, client or key party;

(j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the health care provider;

(l) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;

(m) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client or key party;

(p) Discussing the sexual history, preferences or fantasies of the health care provider;

(q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(r) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(u) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) Sexual misconduct also includes sexual contact with any person involving force, intimidation, or lack of consent; or a conviction of a sex offense as defined in RCW 9.94A.030.

(3) A health care provider shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

(4) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

(5) After the two-year period of time described in subsection (4) of this section, a health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(6) When evaluating whether a health care provider is prohibited from engaging, or attempting to engage, in sexual misconduct, the secretary will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(7) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(8) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

[Statutory Authority: RCW 18.130.050, 18.130.062, and Executive Order 06-03. WSR 15-24-087, § 246-16-100, filed 11/30/15, effective 12/31/15. Statutory Authority: RCW 18.130.050 (1), (12) and 18.130.180. WSR 06-18-045, § 246-16-100, filed 8/30/06, effective 9/30/06.]

246-16-200
Mandatory reporting—Intent.

These mandatory reporting rules require certain reports about license holders and are intended to address patient safety. These rules are not intended to limit reports from any person who has a concern about a license holder's conduct or ability to practice safely.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-200, filed 3/31/08, effective 5/1/08.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

246-16-210
Mandatory reporting—Definitions.

(1) "Approved impaired practitioner or voluntary substance abuse program" means a program authorized by RCW 18.130.175 and approved by a disciplining authority listed in RCW 18.130.040.

(2) "Conviction" means a court has decided a person is guilty of any gross misdemeanor or felony. It includes any guilty or no contest plea and all decisions with a deferred or suspended sentence.

(3) "Determination or finding" means a final decision by an entity required or requested to report under this chapter. This applies even if no adverse action or sanction has been imposed or if the license holder is appealing the decision.

(4) "License holder" means a person holding a credential in a profession regulated by a disciplining authority listed in RCW 18.130.040(2).

(5) "Unable to practice with reasonable skill and safety due to a mental or physical condition" means a license holder who:

(a) A court has declared to be incompetent or mentally ill; or

(b) Is not successfully managing a mental or physical condition and as a result poses a risk to patient safety.

(6) "Unprofessional conduct" means the acts, conduct, or conditions described in RCW 18.130.180.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-210, filed 3/31/08, effective 5/1/08.]

246-16-220
Mandatory reporting—How and when to report.

(1) Reports are submitted to the department of health. The department will give the report to the appropriate disciplining authority for review, possible investigation, and further action.

(a) When a patient has been harmed, a report to the department is required. A report to one of the approved impaired practitioner or voluntary substance abuse programs is not a substitute for reporting to the department.

(b) When there is no patient harm, reports of inability to practice with reasonable skill and safety due to a mental or physical condition may be submitted to one of the approved impaired practitioner or voluntary substance abuse programs or to the department. Reports of unprofessional conduct are submitted to the department.

(c) Reports to a national practitioner data bank do not meet the requirement of this section.

(2) The report must include enough information to enable the disciplining authority to assess the report. If these details are known, the report should include:

(a) The name, address, and telephone number of the person making the report.

(b) The name, address, and telephone number(s) of the license holder being reported.

(c) Identification of any patient or client who was harmed or placed at risk.

(d) A brief description or summary of the facts that caused the report, including dates.

(e) If court action is involved, the name of the court, the date of filing, and the docket number.

(f) Any other information that helps explain the situation.

(3) Reports must be submitted no later than thirty calendar days after the reporting person has actual knowledge of the information that must be reported.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-220, filed 3/31/08, effective 5/1/08.]

246-16-230
Mandatory reporting—License holder self reports.

Each license holder must self report:

(1) Any conviction, determination, or finding that he or she has committed unprofessional conduct; or

(2) Information that he or she is unable to practice with reasonable skill and safety due to a mental or physical condition; or

(3) Any disqualification from participation in the federal medicare or medicaid program.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-230, filed 3/31/08, effective 5/1/08.]

246-16-235
Mandatory reporting—License holder reporting other license holders.

A license holder must report another license holder in some circumstances.

(1) The reporting license holder must submit a report when he or she has actual knowledge of:

(a) Any conviction, determination, or finding that another license holder has committed an act that constitutes unprofessional conduct; or

(b) That another license holder may not be able to practice his or her profession with reasonable skill and safety due to a mental or physical condition.

(2) The license holder does not have to report when he or she is:

(a) A member of a professional review organization as provided in WAC 246-16-255;

(b) Providing health care to the other license holder and the other license holder does not pose a clear and present danger to patients or clients; or

(c) Part of a federally funded substance abuse program or approved impaired practitioner or voluntary substance abuse program and the other license holder is participating in treatment and does not pose a clear and present danger to patients or clients.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-235, filed 3/31/08, effective 5/1/08.]

246-16-240
Mandatory reporting—Reports by professional liability insurance carriers.

Every institution, corporation or organization providing professional liability insurance to a license holder must report:

(1) Any malpractice settlement, award, or payment in excess of twenty thousand dollars that results from a claim or action for damages allegedly caused by a license holder's incompetence or negligence in the practice of the profession.

(2) Award, settlement, or payment of three or more claims during a twelve-month period that result from claims or actions for damages allegedly caused by the license holder's incompetence or negligence in the practice of the profession.

(3) Reports made according to RCW 18.57.245 or 18.71.350 meet the requirement.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-240, filed 3/31/08, effective 5/1/08.]

246-16-245
Mandatory reporting—Reports by health care institutions.

(1) This section applies to:

(a) Hospitals and specialty hospital defined in chapter 70.41 RCW;

(b) Ambulatory surgery facilities defined in chapter 70.230 RCW;

(c) Childbirth centers defined in chapter 18.46 RCW;

(d) Nursing homes defined in chapter 18.51 RCW;

(e) Chemical dependency treatment programs defined in chapter 70.96A RCW;

(f) Drug treatment agencies defined in chapter 69.54 RCW; and

(g) Public and private mental health treatment agencies defined in RCW 71.05.020 and 71.24.025.

(2) The chief administrator or executive officer or designee of these institutions must report when:

(a) A license holder's services are terminated or restricted because a license holder has harmed or placed at unreasonable risk of harm a patient or client; or

(b) A license holder poses an unreasonable risk of harm to patients or clients due to a mental or physical condition.

(3) Reports made by a hospital according to RCW 70.41.210 meet the requirement.

(4) Commencing July 1, 2009, reports made by an ambulatory surgical center according to RCW 70.230.110 meet the requirement.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-245, filed 3/31/08, effective 5/1/08.]

246-16-250
Mandatory reporting—Reports by health service contractors and disability insurers.

The executive officer of health care service contractors and disability insurers licensed under chapters 48.20, 48.21, 48.21A, and 48.44 RCW must report when the entity has made a determination or finding that a license holder has engaged in billing fraud.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-250, filed 3/31/08, effective 5/1/08.]

246-16-255
Mandatory reporting—Reports by professional review organizations.

(1) This section applies to every peer review committee, quality improvement committee, or other similarly designated professional review organization operating in the state of Washington.

(2) Unless prohibited by state or federal law, the professional review organization must report:

(a) When it makes a determination or finding that a license holder has caused harm to a patient or placed a patient at unreasonable risk of harm; and

(b) When it has actual knowledge that the license holder poses an unreasonable risk of harm due to a mental or physical condition.

(3) Professional review organizations and individual license holders participating in a professional review organization do not need to report during the investigative phase of the professional review organization's operation if the organization completes the investigation in a timely manner.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-255, filed 3/31/08, effective 5/1/08.]

STANDARDS OF PROFESSIONAL CONDUCT

246-16-260
Mandatory reporting—Reports by courts.

The department requests that the clerks of trial courts in Washington report professional malpractice judgments and all convictions against a license holder.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-260, filed 3/31/08, effective 5/1/08.]

246-16-265
Mandatory reporting—Reports by state and federal agencies.

The department requests that any state or federal program employing a license holder in Washington reports:

(1) When it determines a license holder has harmed or placed at unreasonable risk of harm a patient or client; and

(2) When it has actual knowledge that the license holder poses an unreasonable risk of harm due to a mental or physical condition.

[Statutory Authority: RCW 18.130.070 and 18.130.060. WSR 08-08-066, § 246-16-265, filed 3/31/08, effective 5/1/08.]

246-16-270
Mandatory reporting—Reports by employers of license holders.

(1) Every license holder, corporation, organization, health care facility, and state and local governmental agency that employs a license holder shall report to the department of health when the employed license holder's services have been terminated or restricted based on a final determination or finding that the license holder:

(a) Has committed an act or acts that may constitute unprofessional conduct; or

(b) May not be able to practice his or her profession with reasonable skill and safety due to a mental or physical condition.

(2) Reports under this section must be submitted to the department of health as soon as possible but no later than twenty days after a final determination or finding is made. The report should contain the information described in WAC 246-16-220(2).

(3) Reports made by a hospital according to RCW 70.41.210 and reports by ambulatory surgical facilities according to RCW 70.230.120 meet the requirement of this section.

(4) If a license holder fails to submit a report required by this section, a civil penalty of up to five hundred dollars may be imposed and the disciplining authority may take action against the license holder for unprofessional conduct.

[Statutory Authority: RCW 18.130.080. WSR 09-04-050, § 246-16-270, filed 1/30/09, effective 3/2/09.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

246-16-800
Sanctions—General provisions.

(1) Applying these rules.

(a) The disciplining authorities listed in RCW 18.130.040(2) will apply these rules to determine sanctions imposed for unprofessional conduct by a license holder in any active, inactive, or expired status. The rules do not apply to applicants.

(b) The disciplining authorities will apply the rules in:

(i) Orders under RCW 18.130.110 or 18.130.160; and

(ii) Stipulations to informal disposition under RCW 18.130.172.

(c) Sanctions will begin on the effective date of the order.

(2) Selecting sanctions.

(a) The disciplining authority will select sanctions to protect the public and, if possible, rehabilitate the license holder.

(b) The disciplining authority may impose the full range of sanctions listed in RCW 18.130.160 for orders and RCW 18.130.172 for stipulations to informal dispositions.

(i) Suspension or revocation will be imposed when the license holder cannot practice with reasonable skill or safety.

(ii) Permanent revocation may be imposed when the disciplining authority finds the license holder can never be rehabilitated or can never regain the ability to practice safely.

(iii) Surrender of a credential may be imposed when the license holder is at the end of his or her effective practice and surrender alone is enough to protect the public. The license holder must agree to retire and not resume practice.

(iv) Indefinite suspension may be imposed in default and waiver of hearing orders. If indefinite suspension is not imposed in a default or waiver of hearing order, the disciplining authority shall impose sanctions determined according to these rules.

(v) "Oversight" means a period of time during which respondent must engage in on-going affirmative conduct intended to encourage rehabilitation and ensure public safety. It also includes active compliance monitoring by the disciplining authority. The passage of time without additional complaints or violations, with or without payment of a fine or costs, is not, by itself, oversight.

(c) The disciplining authority may deviate from the sanction schedules in these rules if the schedule does not adequately address the facts in a case. The disciplining authority will acknowledge the deviation and state its reasons for deviating from the sanction schedules in the order or stipulation to informal disposition.

(d) If the unprofessional conduct is not described in a schedule, the disciplining authority will use its judgment to determine appropriate sanctions. The disciplining authority will state in the order or stipulation to informal disposition that no sanction schedule applies.

(3) Using sanction schedules.

(a) Step 1: The findings of fact in an order or the allegations in an informal disposition describe the unprofessional conduct. The disciplining authority uses the unprofessional conduct described to select the appropriate sanction schedule contained in WAC 246-16-810 through 246-16-860.

(i) If the act of unprofessional conduct falls in more than one sanction schedule, the greater sanction is imposed.

(ii) If different acts of unprofessional conduct fall in the same sanction schedule, the highest sanction is imposed and the other acts of unprofessional conduct are considered aggravating factors.

(b) Step 2: The disciplining authority identifies the severity of the unprofessional conduct and identifies a tier using the sanction schedule tier descriptions.

(c) Step 3: The disciplining authority identifies aggravating or mitigating factors using the list in WAC 246-16-890. The disciplining authority describes the factors in the order or stipulation to informal disposition.

(d) Step 4: The disciplining authority selects sanctions within the identified tier. The starting point for duration of the sanctions is the middle of the tier range.

(i) Aggravating factors move the appropriate sanctions towards the maximum end of the tier range.

(ii) Mitigating factors move the appropriate sanctions towards the minimum end of the tier range.

(iii) Mitigating or aggravating factors may result in determination of a sanction outside the range in the tier. The disciplining authority will state its reasons for deviating from the tier range in the sanction schedule in the order or stipulation to informal disposition. The disciplining authority has complied with these rules if it acknowledges the deviation and states its reasons for deviating from the sanction schedules in the order or stipulation to informal disposition.

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-800, filed 7/22/09, effective 8/22/09.]

246-16-810
Sanction schedule—Practice below standard of care.

Chapter 246-16 WAC **Last Update: 7/22/09**

STANDARDS OF PROFESSIONAL CONDUCT

PRACTICE BELOW STANDARD OF CARE				
Severity	Tier / Conduct	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least	**A** – Caused no or minimal patient harm or a risk of minimal patient harm	Conditions that may include reprimand, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	B – Caused moderate patient harm or risk of moderate to severe patient harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
greatest	**C** – Caused severe harm or death to a human patient	Oversight for 3 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. In addition - demonstration of knowledge or competency.	Permanent conditions, restrictions or revocation.	3 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-810, filed 7/22/09, effective 8/22/09.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

246-16-820
Sanction schedule—Sexual misconduct or contact.

STANDARDS OF PROFESSIONAL CONDUCT

SEXUAL MISCONDUCT OR CONTACT (including convictions for sexual misconduct)				
Severity	Tier / Conduct	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least	A –Inappropriate conduct, contact, or statements of a sexual or romantic nature	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	B – Sexual contact, romantic relationship, or sexual statements that risk or result in patient harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
greatest	C – Sexual contact, including but not limited to contact involving force and/or intimidation, and convictions of sexual offenses in RCW 9.94A.030.	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions, or revocation.	6 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-820, filed 7/22/09, effective 8/22/09.]

STANDARDS OF PROFESSIONAL CONDUCT

246-16-830
Sanction schedule—Abuse—Physical and emotional.

STANDARDS OF PROFESSIONAL CONDUCT

ABUSE -- Physical and/or Emotional				
Severity	Tier / Conduct	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least	**A** – Verbal or nonverbal intimidation, forceful contact, or disruptive or demeaning behavior, including general behavior not necessarily directed at a specific patient or patients	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 3 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-3 years
	B – Abusive unnecessary or forceful contact or disruptive or demeaning behavior causing or risking moderate mental or physical harm, including general behavior not directed at a specific patient or patients.	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
greatest	**C** – Severe physical, verbal, or forceful contact, or emotional disruptive behavior, that results in or risks significant harm or death	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions, or revocation.	6 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-830, filed 7/22/09, effective 8/22/09.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

246-16-840
Sanction schedule—Diversion of controlled substances or legend drugs.

STANDARDS OF PROFESSIONAL CONDUCT

DIVERSION OF CONTROLLED SUBSTANCES OR LEGEND DRUGS				
Severity	Tier/Conduct	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least	**A** – Diversion with no or minimal patient harm or risk of harm	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, treatment, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, treatment etc.	0-5 years
	B – Diversion with moderate patient harm or risk of harm or for distribution	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc.	Oversight for 7 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc. OR revocation.	2 - 7 years unless revocation
greatest	**C** – Diversion with severe physical injury or death of a patient or a risk of severe physical injury or death or for substantial distribution to others	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions OR revocation.	6 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-840, filed 7/22/09, effective 8/22/09.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

246-16-850
Sanction schedule—Substance abuse.

STANDARDS OF PROFESSIONAL CONDUCT

SUBSTANCE ABUSE				
Severity	Tier / Conduct	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least	**A** – Misuse of drugs or alcohol with no to minimal patient harm or risk of harm	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, treatment, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, treatment, etc.	0-5 years
	B –Misuse of drugs or alcohol with moderate patient harm or risk of harm	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc.	Oversight for 7 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, treatment, etc. OR revocation.	2 - 7 years unless revocation
greatest	**C** –Misuse of drugs or alcohol with severe physical injury or death of a patient or a risk of significant physical injury or death	1 year suspension AND oversight for 5 additional years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. AND demonstration of successful completion of evaluation and treatment.	Permanent conditions, restrictions OR revocation.	6 years - permanent

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-850, filed 7/22/09, effective 8/22/09.]

Chapter 246-16 WAC

Last Update: 7/22/09

STANDARDS OF PROFESSIONAL CONDUCT

246-16-860
Sanction schedule—Criminal convictions.

STANDARDS OF PROFESSIONAL CONDUCT

CRIMINAL CONVICTIONS (excluding sexual misconduct)				
Severity	Tier / Conviction	Sanction Range In consideration of Aggravating & Mitigating Circumstances		Duration
		Minimum	Maximum	
least	**A** – Conviction of a Gross Misdemeanor except sexual offenses in RCW 9.94A.030	Conditions that may include reprimand, training, monitoring, probation, supervision, evaluation, etc.	Oversight for 5 years which may include reprimand, training, monitoring, supervision, evaluation, probation, suspension, etc.	0-5 years
	B – Conviction of a Class B, C, OR Unclassified Felony, except sexual offenses in RCW 9.94A.030	Oversight for 2 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc.	Oversight for 5 years which may include suspension, probation, practice restrictions, training, monitoring, supervision, probation, evaluation, etc. OR revocation.	2 years - 5 years unless revocation
greatest	**C** – Conviction of a Class A Felony, except sexual offenses in RCW 9.94A.030	5 years suspension	Permanent revocation	5 years - permanent revocation

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-860, filed 7/22/09, effective 8/22/09.]

STANDARDS OF PROFESSIONAL CONDUCT

246-16-890
Sanctions—Aggravating and mitigating factors.

The following nonexclusive list identifies factors that may mitigate or aggravate the sanctions that should be imposed in an order or stipulation to informal disposition.

(1) Factors related to the unprofessional conduct:

(a) Gravity of the unprofessional conduct;

(b) Age, capacity and/or vulnerability of the patient, client or victim;

(c) Number or frequency of the acts of unprofessional conduct;

(d) Injury caused by the unprofessional conduct;

(e) Potential for injury to be caused by the unprofessional conduct;

(f) Degree of responsibility for the outcome;

(g) Abuse of trust;

(h) Intentional or inadvertent act(s);

(i) Motivation is criminal, immoral, dishonest or for personal gain;

(j) Length of time since the unprofessional conduct occurred.

(2) Factors related to the license holder:

(a) Experience in practice;

(b) Past disciplinary record;

(c) Previous character;

(d) Mental and/or physical health;

(e) Personal circumstances;

(f) Personal problems having a nexus with the unprofessional conduct.

(3) Factors related to the disciplinary process:

(a) Admission of key facts;

(b) Full and free disclosure to the disciplining authority;

(c) Voluntary restitution or other remedial action;

(d) Bad faith obstruction of the investigation or discipline process or proceedings;

(e) False evidence, statements or deceptive practices during the investigation or discipline process or proceedings;

(f) Remorse or awareness that the conduct was wrong;

(g) Impact on the patient, client, or victim.

(4) General factors:

(a) License holder's knowledge, intent, and degree of responsibility;

(b) Presence or pattern of other violations;

(c) Present moral fitness of the license holder;

(d) Potential for successful rehabilitation;

(e) Present competence to practice;

(f) Dishonest or selfish motives;

(g) Illegal conduct;

(h) Heinousness of the unprofessional conduct;

(i) Ill repute upon the profession;

(j) Isolated incident unlikely to reoccur.

[Statutory Authority: RCW 18.130.390. WSR 09-15-190, § 246-16-890, filed 7/22/09, effective 8/22/09.]

Chapter 246-470 WAC

Last Update: 3/18/14

PRESCRIPTION MONITORING PROGRAM

WAC Sections

246-470-001	Purpose.
246-470-010	Definitions.
246-470-020	Adding additional drugs to the program.
246-470-030	Data submission requirements for dispensers.
246-470-035	Dispensing and data submission requirements for veterinarians.
246-470-040	Patient access to information from the program.
246-470-050	Pharmacist, prescriber or other health care practitioner access to information from the program.
246-470-060	Law enforcement, prosecutorial officials, coroners, and medical examiners' access to information from the program.
246-470-070	Other prescription monitoring program's access to information from the program.
246-470-080	Access by public or private research entities to information from the program.
246-470-090	Confidentiality.
246-470-100	Penalties and sanctions.

246-470-001
Purpose.

These rules implement the prescription monitoring program, established by the legislature in chapter 70.225 RCW, as a means to promote the public health, safety, and welfare and to detect and prevent prescription drug abuse.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-001, filed 7/27/11, effective 8/27/11.]

246-470-010
Definitions.

The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Authentication" means information, electronic device, or certificate provided by the department or their designee to a data requestor to electronically access prescription monitoring information. The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

(2) "Controlled substance" has the same meaning provided in RCW 69.50.101.

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

(4) "Dispenser" means a practitioner or pharmacy that delivers to the ultimate user a schedule II, III, IV, or V controlled substance or other drugs identified by the pharmacy quality assurance commission in WAC 246-470-020, but does not include:

(a) A practitioner or other authorized person who only administers, as defined in RCW 69.41.010, a controlled substance or other drugs identified by the pharmacy quality assurance commission in WAC 246-470-020;

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance or other drugs identified by the pharmacy quality assurance commission in WAC 246-470-020; or

(c) A veterinarian licensed under chapter 18.92 RCW. Data submission requirements for veterinarians are included in WAC 246-470-035.

(5) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

(6) "Patient address" means the current geographic location of the patient's residence. If the patient address is in care of another person or entity, the address of that person or entity is the "patient address" of record. When alternate addresses are possible, they must be recorded in the following order of preference:

(a) The geographical location of the residence, as would be identified when a telephone is used to place a 9-1-1 call; or

(b) An address as listed by the United States Postal Service; or

(c) The common name of the residence and town.

(7) "Pharmacist" means a person licensed to engage in the practice of pharmacy.

(8) "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

(9) "Prescription monitoring information" means information submitted to and maintained by the prescription monitoring program.

(10) "Program" means the prescription monitoring program established under chapter 70.225 RCW.

(11) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any United States state or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any United States state or province of Canada.

(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) A state liquor control identification card. An official age identification card issued by the liquor control authority of any United States state or Canadian province.

(g) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses and are recognized by the liquor control board.

[Statutory Authority: RCW 70.225.020 and 70.225.025. WSR 14-07-099, § 246-470-010, filed 3/18/14, effective 4/18/14; WSR 13-12-025, § 246-470-010, filed 5/28/13, effective 6/28/13. Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-010, filed 7/27/11, effective 8/27/11.]

Chapter 246-470 WAC

Last Update: 3/18/14

PRESCRIPTION MONITORING PROGRAM

246-470-020
Adding additional drugs to the program.

Pursuant to RCW 70.225.020, the pharmacy quality assurance commission may add additional drugs to the list of drugs being monitored by the program by requesting the department amend these rules.
[Statutory Authority: RCW 70.225.020 and 70.225.025. WSR 14-07-099, § 246-470-020, filed 3/18/14, effective 4/18/14. Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-020, filed 7/27/11, effective 8/27/11.]

246-470-030
Data submission requirements for dispensers.

(1) A dispenser shall provide to the department the dispensing information required by RCW 70.225.020 and this section for all scheduled II, III, IV, and V controlled substances and for drugs identified by the pharmacy quality assurance commission under WAC 246-470-020. Only drugs dispensed for more than one day use must be reported.

(2) Dispenser identification number. A dispenser shall acquire and maintain an identification number issued to dispensing pharmacies by the National Council for Prescription Drug Programs or a prescriber identifier issued to authorized prescribers of controlled substances by the Drug Enforcement Administration, United States Department of Justice.

(3) Submitting data. A dispenser shall submit data to the department electronically, not later than one week from the date of dispensing, and in the format required by the department.

(a) A dispenser shall submit for each dispensing the following information and any additional information required by the department:

(i) Patient identifier. A patient identifier is the unique identifier assigned to a particular patient by the dispenser;

(ii) Name of the patient for whom the prescription is ordered including first name, middle initial, last name, and generational suffixes, if any;

(iii) Patient date of birth;

(iv) Patient address;

(v) Patient gender;

(vi) Drug dispensed;

(vii) Date of dispensing;

(viii) Quantity and days supply dispensed;

(ix) Refill information;

(x) Prescriber identifier;

(xi) Prescription issued date;

(xii) Dispenser identifier;

(xiii) Prescription fill date and number;

(xiv) Source of payment indicated by one of the following:

(A) Private pay (cash, change, credit card, check);
(B) Medicaid;
(C) Medicare;
(D) Commercial insurance;
(E) Military installations and veterans affairs;
(F) Workers compensation;
(G) Indian nations;
(H) Other; and
(xv) When practicable, the name of person picking up or dropping off the prescription, as verified by valid photographic identification.
(b) A nonresident, licensed pharmacy that delivers controlled substances, as defined in RCW 18.64.360, is required to submit only the transactions for patients with a Washington state zip code.
(c) Data submission requirements do not apply to:
(i) The department of corrections or pharmacies operated by a county for the purpose of providing medications to offenders in state or county correctional institutions who are receiving pharmaceutical services from a state or county correctional institution's pharmacy. A state or county correctional institution's pharmacy must submit data to the program related to each offender's current prescriptions for controlled substances upon the offender's release from a state or county correctional institution.
(ii) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or medications provided to patients receiving outpatient services provided at ambulatory surgical facilities licensed under chapter 70.230 RCW.
[Statutory Authority: RCW 70.225.020 and 70.225.025. WSR 14-07-099, § 246-470-030, filed 3/18/14, effective 4/18/14; WSR 13-12-025, § 246-470-030, filed 5/28/13, effective 6/28/13. Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-030, filed 7/27/11, effective 8/27/11.]

246-470-035
Dispensing and data submission requirements for veterinarians.

A veterinarian licensed under chapter 18.92 RCW shall provide to the department the dispensing information required by RCW 70.225.020 and as provided in this section for all schedule II, III, IV and V controlled substances and for drugs identified by the pharmacy quality assurance commission under WAC 246-470-020.
(1) Dispenser identification number. A veterinarian shall acquire and maintain a prescriber identifier issued to authorized prescribers of controlled substances by the Drug Enforcement Administration, United States Department of Justice.
(2) Submitting data. A veterinarian shall:
(a) Report data for schedule II, III, IV, and V controlled substances, and other required drugs identified by the pharmacy quality assurance commission under WAC 246-470-020, dispensed for more than a fourteen-day supply;
(b) Report data using either electronic or nonelectronic methods provided by the department;
(c) Submit data quarterly. Data must be reported on the following schedule:

PRESCRIPTION MONITORING PROGRAM

Reporting Period	Report Due Date
January - March	April 10
April - June	July 10
July - September	October 10
October - December	January 10

(d) Report the following data elements to the department for each schedule II, III, IV, and V controlled substance and other required drugs dispensed for more than a fourteen-day supply:

(i) Name of the animal for whom the drug is dispensed including name of the animal or the animal's species (example: Feline) and the owner's last name;

(ii) Animal's date of birth, or if date of birth is unknown, enter January 1st of the estimated birth year;

(iii) Owner's name including first name, middle initial, last name, and generational suffixes, if any;

(iv) Owner's address;

(v) Drug dispensed;

(vi) Date the drug was dispensed;

(vii) Quantity and days supply dispensed;

(viii) Prescriber identifier;

(ix) Dispenser identifier; and

(x) When practicable, the identification number from a valid photo identification card of the owner.

[Statutory Authority: RCW 70.225.020 and 70.225.025. WSR 14-07-099, § 246-470-035, filed 3/18/14, effective 4/18/14; WSR 13-12-025, § 246-470-035, filed 5/28/13, effective 6/28/13.]

246-470-040

Patient access to information from the program.

A patient, or a patient's personal representative authorized under Title 11 RCW (Probate and trust law) and Title 7 RCW (Special proceedings and actions), may obtain a report listing all prescription monitoring information that pertains to the patient.

(1) Procedure for obtaining information. A patient or a patient's personal representative requesting information pursuant to this section shall submit a written request in person at the department, or at any other place specified by the department. The written request must be in a format established by the department.

(2) Identification required. The patient or the patient's personal representative must provide valid photographic identification prior to obtaining access to the information requested in this section.

(3) Proof of personal representation. Before obtaining access to the information pursuant to this section, a personal representative shall provide either:

(a) An official attested copy of the judicial order granting them authority to gain access to the health care records of the patient;

(b) In the case of parents of a minor child, a certified copy of the birth certificate of the minor child or other certified legal documents establishing parentage or guardianship; or

(c) In the case of persons holding power of attorney, the original document establishing the power of attorney.

The department may verify the patient authorization by any reasonable means prior to providing the information to the patient's personal representative.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-040, filed 7/27/11, effective 8/27/11.]

246-470-050

Pharmacist, prescriber or other health care practitioner access to information from the program.

A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber may obtain prescription monitoring information relating to their patients, for the purpose of providing medical or pharmaceutical care.

(1) Registration for access. A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber shall register with the department in order to receive an authentication to access the electronic system. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of the pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber may access information from the program electronically, using the authentication issued by the department.

(4) A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber may alternately submit a written request via mail or facsimile transmission in a manner and format established by the department.

(5) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber shall notify the department by telephone and in writing as soon as reasonably possible.

(6) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-050, filed 7/27/11, effective 8/27/11.]

Chapter 246-470 WAC

Last Update: 3/18/14

PRESCRIPTION MONITORING PROGRAM

246-470-060
Law enforcement, prosecutorial officials, coroners, and medical examiners' access to information from the program.

Local, state, or federal law enforcement officers and prosecutorial officials may obtain prescription monitoring information for a bona fide specific investigation involving a designated person. A local, state, or federal coroner or medical examiner may obtain prescription monitoring information for a bona fide specific investigation to determine cause of death.

(1) Registration for access. Local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners shall register with the department in order to receive an authentication to access information from the program. The registration process shall be established by the department.

(2) Verification by the department. The department shall verify the authentication and identity of local, state, or federal law enforcement officers, prosecutorial officials, coroners, and medical examiners before allowing access to any prescription monitoring information.

(3) Procedure for accessing prescription information. Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may access information from the program electronically using the authentication issued by the department.

(4) Local, state, or federal law enforcement officers and prosecutorial officials shall electronically attest that the requested information is required for a bona fide specific investigation involving a designated person prior to accessing prescription monitoring information.

(5) Local, state, or federal coroner or medical examiners shall electronically attest that the requested information is required for a bona fide specific investigation to determine cause of death prior to accessing prescription monitoring information.

(6) Local, state, or federal law enforcement officers, prosecutorial officials, coroners and medical examiners may alternately submit a written request via mail or facsimile transmission in a format established by the department. The written request must contain an attestation that the requested information is required for a bona fide specific investigation involving a designated person or for a bona fide specific investigation to determine cause of death.

(7) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the local, state, and federal law enforcement officers, prosecutorial officials, coroners or medical examiners shall notify the department by telephone and in writing as soon as reasonably possible.

(8) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-060, filed 7/27/11, effective 8/27/11.]

246-470-070

Other prescription monitoring program's access to information from the program.

Established prescription monitoring programs may obtain prescription monitoring information for requests from within their jurisdiction that do not violate the provisions of this chapter or chapter 70.225 RCW.

(1) The other prescription monitoring program must provide substantially similar protections for patient information as the protections provided in chapter 70.225 RCW.

(2) The department may share information with other prescription monitoring programs qualified under this section through a clearinghouse or prescription monitoring program information exchange that meets federal health care information privacy requirements.

(3) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-070, filed 7/27/11, effective 8/27/11.]

246-470-080

Access by public or private research entities to information from the program.

(1) The department may provide prescription monitoring information in a format established by the department to any public or private entity for statistical, research, or educational purposes.

(2) Before the department releases any requested information, the department shall remove information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(3) To obtain information from the program a public or private entity shall submit a request in a format established by the department.

(4) All requests for, uses of, and disclosures of prescription monitoring information by the requesting entity must be consistent with the program's mandate as outlined in RCW 70.225.040 and this chapter.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-080, filed 7/27/11, effective 8/27/11.]

246-470-090

Confidentiality.

Under RCW 70.225.040, prescription monitoring information is confidential, and maintained in compliance with chapter 70.02 RCW and federal health care information privacy requirements.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-090, filed 7/27/11, effective 8/27/11.]

Chapter 246-470 WAC

Last Update: 3/18/14

PRESCRIPTION MONITORING PROGRAM

246-470-100
Penalties and sanctions.

In addition to the penalties described in RCW 70.225.060, if the department determines a person has intentionally or knowingly used or disclosed prescription monitoring information in violation of chapter 70.225 RCW, the department may take action including, but not limited to:

(1) Terminating access to the program;

(2) Filing a complaint with appropriate health profession regulatory entities; or

(3) Reporting the violation to law enforcement.

[Statutory Authority: Chapter 70.225 RCW and 2007 c 259. WSR 11-16-041, § 246-470-100, filed 7/27/11, effective 8/27/11.]

Chapter 246-856 WAC

Last Update: 4/28/11

BOARD OF PHARMACY—GENERAL

WAC Sections

246-856-001 Purpose.
246-856-020 Adjudicative proceedings—Procedural rules for the board of pharmacy.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-856-030 Delegation of authority to initiate investigations. [Statutory Authority: RCW 18.64.005, 18.130.050 and 18.130.080. WSR 08-06-030, § 246-856-030, filed 2/25/08, effective 3/27/08.] Repealed by WSR 11-10-046, filed 4/28/11, effective 5/29/11. Statutory Authority: RCW 18.130.050(1), 18.64.005(7).

246-856-001

Purpose.

The purpose of this chapter is to combine the common rules adopted by the board of pharmacy for all holders of licenses, registrations and certifications, as well as any other authorizations, issued by the board of pharmacy.

[Statutory Authority: RCW 18.64.005. WSR 94-17-144, § 246-856-001, filed 8/23/94, effective 9/23/94.]

246-856-020

Adjudicative proceedings—Procedural rules for the board of pharmacy.

The board adopts the model procedural rules for adjudicative proceedings as adopted by the department of health and contained in chapter 246-11 WAC, including subsequent amendments.

[Statutory Authority: RCW 18.64.005. WSR 94-17-144, § 246-856-020, filed 8/23/94, effective 9/23/94.]

Chapter 246-858 WAC

Last Update: 12/20/95

PHARMACISTS—INTERNSHIP REQUIREMENTS

WAC Sections

246-858-020 General requirements.
246-858-030 Registration of interns.
246-858-040 Rules for the pharmacy intern.
246-858-050 Intern training reports.
246-858-060 Requirements for preceptor certification.
246-858-070 Rules for preceptors.
246-858-080 Special internship approval.

246-858-020
General requirements.

(1) RCW 18.64.080(3) states: "Any person enrolled as a student of pharmacy in an accredited college may file with the department an application for registration as a pharmacy intern—." A student of pharmacy shall be defined as any person enrolled in a college or school of pharmacy accredited by the board of pharmacy or any graduate of any accredited college or school of pharmacy.

(2) As provided for in RCW 18.64.080(3) the board of pharmacy hereby establishes fifteen hundred hours for the internship requirement.

(a) For graduates prior to January 1, 1999, credit may be allowed:

(i) Up to seven hundred hours for experiential classes as part of the curriculum of an accredited college or school of pharmacy commonly referred to as externship/clerkship;

(ii) Eight hundred hours or more for experience obtained after completing the first quarter/semester of pharmacy education.

(b) For graduates after January 1, 1999, credit may be allowed:

(i) Up to twelve hundred hours of experiential classes as part of the curriculum of an accredited college or school of pharmacy commonly referred to as externship/clerkship;

(ii) Three hundred or more hours for experience obtained after completing the first quarter/semester of pharmacy education.

(c) The board will document hours in excess of these requirements for students qualifying for out-of-state licensure.

(3) An applicant for licensure as a pharmacist who has completed seven hundred internship hours will be permitted to take the state board examination for licensure; however, no pharmacist license will be issued to the applicant until the fifteen hundred internship hours have been completed. The hours must be completed and a pharmacist license issued within eighteen months of the date of graduation.

(4) To retain a certificate as a pharmacy intern, the intern must make continuing satisfactory progress in completing the pharmacy course.

(5) Experience must be obtained under the guidance of a preceptor who has met certification requirements prescribed in WAC 246-858-060 and has a certificate except as hereinafter provided for experience gained outside the state of Washington.

(6) Experience obtained in another state may be accepted toward the fulfillment of the fifteen hundred hour requirement provided that a letter is received from the board of pharmacy of that state in which the experience is gained and such letter indicates the experience gained would have been acceptable internship experience to the board of pharmacy in that state.

[Statutory Authority: RCW 18.64.005. WSR 96-02-006, § 246-858-020, filed 12/20/95, effective 1/20/96; WSR 92-12-035 (Order 277B), § 246-858-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 88-06-060 (Order 211), § 360-10-010, filed 3/2/88; Order 139, § 360-10-010, filed 12/9/77; Order 106, § 360-10-010, filed 6/3/71; Regulation 48, § I, filed 6/17/66.]

246-858-030
Registration of interns.

To register as a pharmacy intern, an applicant shall file with the department an application for registration as a pharmacy intern as provided for in RCW 18.64.080. The application shall be accompanied by a fee as specified in WAC 246-907-030. Prior to engaging in the practice of pharmacy as an intern or extern, under the supervision of a preceptor, the applicant must be registered by the board as a pharmacy intern.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-858-030, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 88-01-025 (Order 208), § 360-10-020, filed 12/9/87. Statutory Authority: RCW 18.64.005 and 18.64A.020. WSR 83-18-021 (Order 175), § 360-10-020, filed 8/30/83; Order 106, § 360-10-020, filed 6/3/71; Regulation 48, § II, filed 6/17/66.]

246-858-040
Rules for the pharmacy intern.

(1) The intern shall send notification to the board of pharmacy on or before the intern's first day of training. Such notification shall consist of the date, the name of the pharmacy, and the name of the preceptor where the intern expects to begin his/her internship. The board of pharmacy shall promptly notify the intern of the acceptability of the preceptor under whom the intern expects to gain experience. Internship credit will not be accepted until the preceptor has been certified.

(2) The pharmacy intern shall engage in the practice of pharmacy, and the selling of items restricted to sale under the supervision of a licensed pharmacist, only while the intern is under the direct and personal supervision of a certified preceptor or a licensed pharmacist designated by the preceptor to supervise that intern during the preceptor's absence from the site. Provided, that hours of experience gained while the certified preceptor is absent from the site shall not be counted toward fulfilling any internship requirement.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-858-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-11-041 (Order 170B), § 360-10-030, filed 5/10/91, effective 6/10/91. Statutory Authority: RCW 18.64.005(11). WSR 88-01-025 (Order 208), § 360-10-030, filed 12/9/87; Regulation 48, § III, filed 6/17/66.]

Chapter 246-858 WAC

Last Update: 12/20/95

PHARMACISTS—INTERNSHIP REQUIREMENTS

246-858-050
Intern training reports.

(1) The intern shall file with the board on forms provided by the board an internship evaluation report at the completion of internship training experience at each site.

(2) The board of pharmacy shall provide the necessary affidavit forms to the intern for the purpose of certification of the hours of experience, which shall only include hours under the personal supervision of a preceptor. Affidavits must be certified and recorded in the office of the board of pharmacy not later than thirty days after the completion of any site internship experience. Completion of any site experience is intended to mean those situations when neither the intern nor the preceptor anticipate further intern experience at some later date at that site.

(3) The intern's report and all or part of the hours covered by the period of the report can be rejected by the board if, for the period involved, the pharmacy intern has not performed the practice of pharmacy adequately.

(4) Certification of at least seven hundred hours must be submitted to the board office thirty days prior to licensing examination.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 88-01-025 (Order 208), § 360-10-040, filed 12/9/87; Order 106, § 360-10-040, filed 6/3/71; Order 102, § 360-10-040, filed 12/5/69; Regulation 48, § IV, filed 6/17/66.]

246-858-060
Requirements for preceptor certification.

(1) A pharmacist who is licensed and actively engaged in practice in a Class A pharmacy in the state of Washington, and who has met certification requirements prescribed in this section of the regulation and who has completed a board approved training program within the last five years, and who has been certified by the board of pharmacy shall be known as "pharmacist preceptor." The requirement for completion of an approved training program becomes effective June 30, 1991.

(2) The pharmacist preceptor must have completed twelve months as a licensed pharmacist engaged in the practice of pharmacy as defined in RCW 18.64.011(11).

(3) Any preceptor or preceptor applicant who has been found guilty of a drug or narcotic violation or whose pharmacist license has been revoked, suspended, or placed on probation by the state board of pharmacy shall not be eligible for certification as a preceptor, until completion of the probationary period, and a showing of good cause for certification as a pharmacist preceptor.

(4) The preceptor shall be responsible for the quality of the internship training under his/her supervision and he/she shall assure that the intern actually engages in pharmaceutical activities during that training period.

(5) The board of pharmacy shall withdraw a preceptor's certification upon proof that the preceptor failed to meet or maintain the requirements as stated in this section.

(6) In considering the approval of special internship programs pursuant to WAC 246-858-080, the board may approve alternative qualification requirements for the preceptors of such programs.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-858-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-11-041 (Order 170B), § 360-10-050, filed 5/10/91, effective 6/10/91; WSR 90-11-079 (Order 055), § 360-10-050, filed 5/16/90, effective 6/16/90. Statutory Authority: RCW 18.64.005(11). WSR 88-06-060 (Order 211), § 360-10-050, filed 3/2/88; Order 106, § 360-10-050, filed 6/3/71; Regulation 48, § V, filed 6/17/66.]

246-858-070
Rules for preceptors.

(1) The pharmacist preceptor, or his or her designee in accordance with WAC 246-858-040(2), shall supervise the pharmacy intern and shall be responsible for the sale of restricted items, and the compounding and dispensing of pharmaceuticals dispensed by an intern.

(2) The pharmacist preceptor must use the board approved plan of instruction for interns.

(3) Upon completion of the intern's experience at each site, the preceptor under whom this experience was obtained shall file a report with the board. Such report shall briefly describe the type of professional experience received under the preceptor's supervision and the preceptor's evaluation of the intern's ability to practice pharmacy at that stage of internship.

(4) The board of pharmacy shall provide the necessary affidavit forms to certify hours of experience under the personal supervision of a preceptor. Affidavits must be certified and recorded in the office of the board not later than thirty days after the completion of any site intern experience; provided that any experience necessary for eligibility to take the licensing examination must be in the board office no later than thirty days prior to the examination.

(5) The pharmacist preceptor may supervise more than one intern during a given time period; however, two interns may not dispense concurrently under the direct supervision of the same preceptor.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-858-070, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-11-041 (Order 170B), § 360-10-060, filed 5/10/91, effective 6/10/91. Statutory Authority: RCW 18.64.005(11). WSR 88-06-060 (Order 211), § 360-10-060, filed 3/2/88; Order 102, § 360-10-060, filed 12/5/69; Regulation 48, § VI, filed 6/17/66.]

246-858-080
Special internship approval.

(1) The board will consider applications for approval of special internship programs. Such programs may be approved when the board determines that they offer a significant educational opportunity.

(2) Applications for special internship approval must be submitted at least thirty days prior to the next board meeting which will afford the board an opportunity to review the program.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-858-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 88-01-025 (Order 208), § 360-10-080, filed 12/9/87; Order 114, § 360-10-080, filed 6/28/73.]

Chapter 246-860 WAC

Last Update: 3/28/07

STANDARDS OF PROFESSIONAL CONDUCT

WAC Sections

246-860-010 Purpose of chapter.
246-860-020 Definitions.

SEXUAL MISCONDUCT

246-860-100 Sexual misconduct.

246-860-010
Purpose of chapter.

The rules in this chapter define certain acts of unprofessional conduct for all individual holders of licenses, registrations and certifications issued by the board of pharmacy.
[Statutory Authority: RCW 18.64.005 and 18.130.050. WSR 07-08-040, § 246-860-010, filed 3/28/07, effective 4/28/07.]

246-860-020
Definitions.

(1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed as a pharmacist, pharmacy intern or pharmacy ancillary personnel.

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities consistent with community standards for the practice of pharmacy as defined in RCW 18.64.011(11).

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

(6) "Pharmacist" means a person licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(7) "Pharmacy ancillary personnel" means persons certified as a pharmacy technician or registered as a pharmacy assistant under chapter 18.64A RCW to engage in the practice of pharmacy under the direct supervision of a licensed pharmacist and to the extent permitted by the board in accordance with chapter 18.64A RCW.

(8) "Pharmacy intern" means a person registered by the Washington state board of pharmacy to engage in the practice of pharmacy.
[Statutory Authority: RCW 18.64.005 and 18.130.050. WSR 07-08-040, § 246-860-020, filed 3/28/07, effective 4/28/07.]

246-860-100
Sexual misconduct.

(1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community standards of practice within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(g) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(h) Dressing or undressing in the presence of the patient, client or key party;

(i) Removing patient's or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

(j) Encouraging masturbation or other sex act in the presence of the health care provider;

(k) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;

(l) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(m) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(n) Soliciting a date with a patient, client or key party;

(o) Discussing the sexual history, preferences or fantasies of the health care provider;

(p) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(q) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(r) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(s) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(t) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A health care provider shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

(3) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client, or key party if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(4) When evaluating whether a health care provider engaged, or attempted to engage, in sexual misconduct, the board will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(5) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(6) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

[Statutory Authority: RCW 18.64.005 and 18.130.050. WSR 07-08-040, § 246-860-100, filed 3/28/07, effective 4/28/07.]

Chapter 246-861 WAC

Last Update: 2/13/98

PHARMACISTS—PROFESSIONAL PHARMACEUTICAL EDUCATION

WAC Sections

246-861-010 Definitions.
246-861-020 Renewal requirements.
246-861-040 Applications for approval of continuing education program—Post-approval of continuing education program.
246-861-050 Continuing education program approved providers.
246-861-055 Continuing education program.
246-861-060 Instructors' credit toward continuing education unit.
246-861-090 Amount of continuing education.
246-861-095 Pharmacists licensed in other health professions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-861-030 Continuing education programs. [Statutory Authority: RCW 18.64.005. WSR 92-03-029 (Order 234B), § 246-861-030, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-030, filed 8/30/91, effective 9/30/91; Order 116, § 360-11-020, filed 11/9/73.] Repealed by WSR 97-20-164, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-861-070 Credit for continuing education. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-033, filed 6/26/80.] Repealed by WSR 92-03-029 (Order 234B), § 246-861-010, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005.

246-861-080 Credit for individual study programs. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-037, filed 6/26/80.] Repealed by WSR 92-03-029 (Order 234B), § 246-861-010, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005.

246-861-100 Pharmacist audits—Disallowed credit. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-045, filed 6/26/80.] Repealed by WSR 92-03-029 (Order 234B), § 246-861-010, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005.

246-861-110 Advisory committee on continuing education. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-110, filed 8/30/91,

effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-060, filed 6/26/80; Order 116, § 360-11-060, filed 11/9/73.] Repealed by WSR 92-03-029 (Order 234B), § 246-861-010, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005.

246-861-120 Waiver of the continuing education requirement. [Statutory Authority: RCW 18.64.005. WSR 92-03-029 (Order 234B), § 246-861-120, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-120, filed 8/30/91, effective 9/30/91; Order 116, § 360-11-070, filed 11/9/73.] Repealed by WSR 98-05-060, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.280.

246-861-010
Definitions.

(1) "Accredited programs/courses" means continuing education sponsored by providers which are approved by the American Council on Pharmaceutical Education (ACPE).

(2) "Board approved programs/courses" means continuing education which has been reviewed and approved by the board office.

(3) "Approved provider" means any person, corporation, or association approved either by the board or ACPE to conduct continuing professional education programs.

(4) "Continuing education" means accredited or approved post-licensure professional pharmaceutical education designed to maintain and improve competence in the practice of pharmacy, pharmacy skills, and preserve pharmaceutical standards for the purpose of protecting the public health, safety, and welfare.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-861-010, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 95-08-019, § 246-861-010, filed 3/27/95, effective 4/27/95; WSR 92-03-029 (Order 234B), § 246-861-010, filed 1/8/92, effective 2/8/92.]

246-861-020
Renewal requirements.

(1) A pharmacist who desires to reinstate his or her pharmacist license after having been unlicensed for over one year shall, as a condition for reinstatement, submit proof of fifteen hours of continuing education for each year unlicensed or complete such continuing education credits as may be specified by the board in each individual case.

(2) The board of pharmacy may accept comparable continuing education units which have been approved by other boards of pharmacy.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-861-020, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 95-08-019, § 246-861-020, filed 3/27/95, effective 4/27/95; WSR 92-03-029 (Order 234B), § 246-861-020, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-010, filed 6/26/80. Statutory Authority: RCW 69.50.201. WSR 79-04-048 (Order 147, Resolution No. 3-79), § 360-11-010, filed 3/27/79; Order 116, § 360-11-010, filed 11/9/73.]

PHARMACISTS—PROFESSIONAL PHARMACEUTICAL EDUCATION

246-861-040
Applications for approval of continuing education program—Post-approval of continuing education program.

(1) Applications for approval or post-approval of a continuing education program which is not an accredited program or provided by an approved provider shall be made on the form provided for this purpose by the Washington state board of pharmacy in the law book.

(2) The provider shall submit an application form forty-five days prior to the date the program will be held.

(3) A pharmacist who attends a program that has not been preapproved according to this rule, must submit application for approval within twenty days following the program.

(4) All programs approved by the American Council on Pharmaceutical Education or the board, are accepted for continuing education credit and do not require that an individual provider approval be obtained in each case.

(5) The board of pharmacy may accept comparable continuing education units which have been approved by other boards of pharmacy.

[Statutory Authority: RCW 18.64.005. WSR 96-11-042, § 246-861-040, filed 5/8/96, effective 6/8/96; WSR 95-08-019, § 246-861-040, filed 3/27/95, effective 4/27/95; WSR 92-03-029 (Order 234B), § 246-861-040, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-023, filed 6/26/80.]

246-861-050
Continuing education program approved providers.

(1) Any provider may apply to the board on forms provided by the board for qualification as an approved provider. If a provider is approved, the board will issue a certificate or other notification of qualification. The approval shall be effective for a period of two years and shall be renewable as set forth by the board. Providers who apply to the board for approved provider status must document the following:

(a) Identify the individual responsible for the providers' CE program;

(b) Provide copies of CE material and information used by the provider the previous two years with each renewal; and

(c) Develop a procedure for establishing:

(i) Educational goals and objectives for each program;

(ii) Program evaluation component for each program.

(d) A continuing education provider shall supply each attendee or subscriber with a written program description which lists the topic(s) covered, number of speakers or authors, time devoted to the program topic(s), and the instructional objectives of the program. The program description must also bear a statement of the number of hours of continuing education credit assigned by the provider.

(e) The provider must make available to each attendee or subscriber proof of attendance or participation suitable for verifying to the board the completion of continuing education requirements.

(f) The provider shall retain, for a period of two years, a list of persons to whom proof of attendance or participation as specified in (b) of this subsection was supplied. Providers of nonevaluation self-instruction units shall be exempt from this requirement.

(2) The board shall establish the standards and specifications necessary for a provider to obtain approval. These standards and specifications shall at least be equivalent to those established for continuing education programs in pharmacy by the American Council on Pharmaceutical Education.

(3) The board may revoke or suspend an approval of a provider or refuse to renew such approval if the provider fails to maintain the necessary standards and specifications required.

[Statutory Authority: RCW 18.64.005. WSR 95-08-019, § 246-861-050, filed 3/27/95, effective 4/27/95; WSR 92-03-029 (Order 234B), § 246-861-050, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-027, filed 6/26/80.]

246-861-055
Continuing education program.

(1) The continuing professional pharmaceutical education courses may consist of post-graduate studies, institutes, seminars, lectures, conferences, workshops, extension studies, correspondence courses and other similar methods of conveying continuing education as may be approved by the board.

(2) Such courses shall consist of subject matter pertinent to the following general areas of professional pharmaceutical education:

(a) The legal aspects of health care;

(b) The properties and actions of drugs and dosage forms;

(c) The etiology, characteristics, therapeutics, and prevention of the disease state;

(d) Specialized professional pharmacy practice.

(3) Full credit (hour for hour) shall be allowed for:

(a) Speakers.

(b) Panels.

(c) Structured discussion, workshops, and demonstrations.

(d) Structured question and answer sessions.

(4) Credit shall not be allowed for:

(a) Welcoming remarks.

(b) Time spent for meals or social functions.

(c) Business sessions.

(d) Unstructured demonstrations (e.g., poster sessions).

(e) Unstructured question and answer sessions (e.g., after programs ends).

(f) Degree programs except advanced degrees in pharmacy.

(5) Keynote speaker and topics must be submitted through the standard process.

Chapter 246-861 WAC

Last Update: 2/13/98

PHARMACISTS—PROFESSIONAL PHARMACEUTICAL EDUCATION

[Statutory Authority: RCW 18.64.005. WSR 95-08-019, § 246-861-055, filed 3/27/95, effective 4/27/95.]

246-861-060
Instructors' credit toward continuing education unit.

Any pharmacist whose primary responsibility is *not* the education of health professionals, who leads, instructs or lectures to groups of nurses, physicians, pharmacists or others on pharmacy-related topics in organized continuing education shall be granted one hour of continuing education credit for each hour spent in actually presenting the initial course or program which has been approved for continuing education credit.

Any pharmacist whose primary responsibility is the education of health professionals shall be granted continuing education credit only for time expended in leading, instruction or lecturing to groups of physicians, pharmacists, nurses or others on pharmacy related topics outside his/her formal course responsibilities in a learning institution.

A presenter shall not be granted multiple credit for multiple presentations of the same program of continuing education.

[Statutory Authority: RCW 18.64.005. WSR 95-08-019, § 246-861-060, filed 3/27/95, effective 4/27/95; WSR 92-03-029 (Order 234B), § 246-861-060, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-060, filed 8/30/91, effective 9/30/91; Order 116, § 360-11-030, filed 11/9/73.]

246-861-090
Amount of continuing education.

(1) The equivalent of 1.5 continuing education unit (equal to fifteen contact hours) of continuing education shall be required annually of each applicant for renewal of licensure. 0.1 CEU will be given for each contact hour. A pharmacist may claim an incentive of 0.15 CEU for each contact hour for successfully completing a patient education training program which meets the criteria listed below, provided that the incentive credits shall not exceed 1.2 CEU (equal to eight contact hours and four incentive hours).

(2) Patient education training requirements: The program must include patient-pharmacist verbal interactive techniques developed by role-playing in which the pharmacist, in dispensing a medication to the patient can verify that:

(a) The patient knows how to use the medication correctly.

(b) The patient knows about the important or significant side effects and potential adverse effects of the medication.

(c) The patient has the information and demonstrates their understanding of the importance of drug therapy compliance.

[Statutory Authority: RCW 18.64.005. WSR 96-02-007, § 246-861-090, filed 12/20/95, effective 1/20/96; WSR 92-03-029 (Order 234B), § 246-861-090, filed 1/8/92, effective 2/8/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-861-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 80-08-036 (Order 156, Resolution No. 6/80), § 360-11-040, filed 6/26/80; Order 116, § 360-11-040, filed 11/9/73.]

246-861-095
Pharmacists licensed in other health professions.

A pharmacist who is licensed to practice another health profession shall meet the same pharmacy continuing education requirements in the same manner as all other pharmacists and shall otherwise comply with this chapter. A licensee's compliance with the continuing education requirements of another health profession shall not qualify as compliance with this chapter, unless the subject matter of the continuing education meets the standards established in this chapter.

Chapter 246-863 WAC

Last Update: 11/15/10

PHARMACISTS—LICENSING

WAC Sections

246-863-020 Examinations.
246-863-030 Applicants—Reciprocity applicants.
246-863-035 Temporary permits.
246-863-040 Foreign-trained applicants.
246-863-060 Licensed pharmacists—Employed as responsible managers—Duty to notify board.
246-863-070 Inactive credential.
246-863-080 Retired pharmacist license.
246-863-090 Expired license.
246-863-095 Pharmacist's professional responsibilities.
246-863-100 Pharmacist prescriptive authority—Prior board notification of written guideline or protocol required.
246-863-110 Monitoring of drug therapy by pharmacists.
246-863-120 AIDS prevention and information education requirements.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-863-050 Licensed pharmacists change of address. [Statutory Authority: RCW 18.64.005. WSR 93-10-007 (Order 357B), § 246-863-050, filed 4/22/93, effective 5/23/93. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-23-078, § 360-12-110, filed 11/17/89, effective 12/18/89. Statutory Authority: RCW 18.64.005(11). WSR 79-10-007 (Order 151, Resolution No. 9/79), § 360-12-110, filed 9/6/79; Regulation 5, filed 3/23/60.] Repealed by WSR 98-05-060, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.280.

246-863-020
Examinations.

(1) The examination for licensure as a pharmacist shall be known as the full board examination in such form as may be determined by the board.

(2) The score required to pass the examination shall be 75. In addition, the score achieved in the jurisprudence section of the exam shall be no lower than 75.

(3) An examinee failing the jurisprudence section of the full board examination shall be allowed to retake the jurisprudence section at a time and place to be specified by the board.

(4) An examinee who fails the jurisprudence examination three times shall not be eligible for further examination until he or she has satisfactorily completed a pharmacy law course provided by a college of pharmacy or board directed study or tutorial program approved by the board.

(5) A person taking the licensing examination in another state for the purpose of score transfer to Washington shall be required to meet the same licensure requirements as a person taking the licensing examination in Washington. All of the documentation, fees, intern hours and reports shall be submitted. In

order for the score transfer application to be valid, the licensing process must be completed within one year of the date the score transfer notification is received in the board office.
[Statutory Authority: RCW 18.64.005. WSR 94-08-099, § 246-863-020, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-22-045, § 360-12-015, filed 10/30/89, effective 11/30/89; WSR 87-18-066 (Order 207), § 360-12-015, filed 9/2/87. Statutory Authority: RCW 18.64.005(1) and 18.64.080. WSR 84-04-029 (Order 183), § 360-12-015, filed 1/25/84. Statutory Authority: RCW 69.50.201. WSR 79-04-048 (Order 147, Resolution No. 3-79), § 360-12-015, filed 3/27/79.]

246-863-030
Applicants—Reciprocity applicants.

(1) Applicants for license by reciprocity whose applications have been approved shall be required to take and pass the jurisprudence examination given by the board prior to being issued his or her license. The jurisprudence examination shall be offered at least once in every two months. If the licensing process has not been completed within two years of the date of application, the application shall be considered abandoned.

(2) An applicant for license by reciprocity who has been out of the active practice of pharmacy for between three and five years must take and pass the jurisprudence examination and additionally must either serve an internship of 300 hours or take and pass such additional practical examinations as may be specified by the board in each individual case.

(3) An applicant for license by reciprocity who has been out of the active practice of pharmacy for over five years must take and pass the full board examination and serve an internship of 300 hours.
[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-863-030, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 94-08-099, § 246-863-030, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 87-18-066 (Order 207), § 360-12-050, filed 9/2/87. Statutory Authority: RCW 69.50.201. WSR 79-04-048 (Order 147, Resolution No. 3-79), § 360-12-050, filed 3/27/79; Order 121, § 360-12-050, filed 8/8/74; Regulation 4, filed 3/23/60.]

246-863-035
Temporary permits.

(1) A temporary practice permit to practice pharmacy may be issued to an applicant who meets all of the requirements and qualifications for the license, except the results of the fingerprint-based national background check, if required.

(2) A temporary practice permit to practice pharmacy may be issued to an applicant who:

(a) Holds an unrestricted, active license by examination in another state which participates in the license transfer or reciprocity process;

(b) Has completed a Washington application for pharmacist license by transfer or reciprocity;

(c) Has submitted pharmacist license application fees;

(d) Has passed the Washington state jurisprudence exam;

(e) Is not subject to denial of a license or issuance of a conditional or restricted license; and

(f) Does not have a criminal record in Washington state.

(3) A temporary practice permit grants the individual the full scope of practice of pharmacy, except the ability to qualify as a responsible pharmacist manager.

(4) A temporary practice permit expires when any one of the following occurs:

(a) The license is granted;

(b) A notice of decision on the application is mailed to the applicant, unless the notice of decision specifically extends the duration of the temporary practice permit; or

(c) One hundred eighty days after the temporary practice permit is issued.

(5) To receive a temporary practice permit, the applicant must submit the fingerprint card, a written request for a temporary practice permit, and applicable fees.

[Statutory Authority: RCW 18.130.075, 18.130.064, 18.64.005 and 18.64.080. WSR 10-23-080, § 246-863-035, filed 11/15/10, effective 12/16/10. Statutory Authority: RCW 18.64.005. WSR 92-23-058 (Order 317B), § 246-863-035, filed 11/17/92, effective 12/18/92.]

246-863-040
Foreign-trained applicants.

(1) Applicants whose academic training in pharmacy has been obtained from institutions in foreign countries, wishing to be licensed as pharmacists in the state of Washington shall take and pass the foreign pharmacy graduate equivalency examination prepared by the foreign pharmacy graduate education commission and shall have received an educational equivalency certificate from that commission.

(2) In addition, prior to licensure they shall pass the Washington state board of pharmacy full board examination and meet its internship requirements.

(3) Applicants whose academic training in pharmacy has been obtained from institutions in foreign countries and whose credentials are such that no further education is necessary must earn a total of 1500 intern hours before licensure. The applicant must earn at least 1200 intern hours before taking the full board examination: Provided, That the board may, for good cause shown, waive the required 1500 hours.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-015 (Order 180), § 360-12-065, filed 1/9/84. Statutory Authority: RCW 69.50.201. WSR 79-04-048 (Order 147, Resolution No. 3-79), § 360-12-065, filed 3/27/79; Order 122, § 360-12-065, filed 9/30/74.]

246-863-060
Licensed pharmacists—Employed as responsible managers—Duty to notify board.

Licensed pharmacists employed as responsible managers for a pharmacy shall at once notify the state board of pharmacy of such employment and shall comply with such instructions as may be received. A

pharmacist shall also at once notify the state board of pharmacy of termination of employment as a responsible manager. Please refer to WAC 246-869-070 for additional information.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-863-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 79-10-007 (Order 151, Resolution No. 9/79), § 360-12-120, filed 9/6/79; Regulation 8, filed 3/23/60.]

246-863-070
Inactive credential.

(1) A pharmacist may obtain an inactive credential. Refer to the requirements of chapter 246-12 WAC, Part 4.

(2) Practitioners with an inactive credential for three years or less who wish to return to active status must meet the requirements of chapter 246-12 WAC, Part 4.

(3) Practitioners with an inactive credential for more than three years, who have been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Take and pass the jurisprudence examination given by the department;

(c) Meet the requirements of chapter 246-12 WAC, Part 4.

(4) Practitioners with an inactive credential for between three and five years, who have not been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Take and pass the jurisprudence examination given by the department;

(b) Either serve an internship of 300 hours or take and pass such further written practical examinations as specified by the board in each individual case;

(c) Meet the requirements of chapter 246-12 WAC, Part 4.

(5) Practitioners with an inactive credential for over five years, who have not been in active practice in another United States jurisdiction, and wish to return to active status must:

(a) Take and pass the full board examination;

(b) Serve an internship of 300 hours;

(c) Meet the requirements of chapter 246-12 WAC, Part 4.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-863-070, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-863-070, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.140. WSR 85-06-010 (Order 193), § 360-12-125, filed 2/22/85.]

246-863-080
Retired pharmacist license.

(1) Any pharmacist who has been licensed in the state for twenty-five consecutive years, who wishes to retire from the practice of pharmacy, may apply for a retired pharmacist license by submitting to the board:

(a) An application on a form provided by the department; and

(b) A fee as specified in WAC 246-907-030.

(2) The holder of a retired pharmacist license shall not be authorized to practice pharmacy and need not comply with the continuing education requirements of chapter 246-861 WAC.

(3) A retired pharmacist license shall be granted to any qualified applicant and shall entitle such person to receive mailings from the board of pharmacy: Provided, That lawbook updates shall not be mailed without charge.

(4) In order to reactivate a retired pharmacist license, the holder must comply with the provision of WAC 246-863-090 and chapter 246-12 WAC, Part 2.

(5) The annual renewal fee for a retired pharmacist license is set by the secretary in WAC 246-907-030.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-863-080, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-863-080, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 43.70.040. WSR 91-19-028 (Order 194), recodified as § 246-863-080, filed 9/10/91, effective 10/11/91. Statutory Authority: RCW 43.70.250. WSR 91-13-002 (Order 173), § 360-12-128, filed 6/6/91, effective 7/7/91. Statutory Authority: RCW 18.64.005(11). WSR 86-24-057 (Order 203), § 360-12-128, filed 12/2/86.]

246-863-090
Expired license.

(1) If the license has expired for three years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for more than three years, and the practitioner has been in active practice in another United States jurisdiction, the practitioner must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Take and pass the jurisprudence examination given by the department;

(c) Meet the requirements of chapter 246-12 WAC, Part 2.

(3) If the license has expired for between three and five years, and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must:

(a) Take and pass the jurisprudence examination given by the department;

(b) Either serve an internship of 300 hours or take and pass such further written practical examinations as specified by the board in each individual case;

(c) Meet the requirements of chapter 246-12 WAC, Part 2.

(4) If the license has expired for over five years, and the practitioner has not been in active practice in another United States jurisdiction, the practitioner must:

(a) Take and pass the full board examination;

(b) Serve an internship of 300 hours;

(c) Meet the requirements of chapter 246-12 WAC, Part 2.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-863-090, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-863-090, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.140. WSR 85-06-010 (Order 193), § 360-12-130, filed 2/22/85. Statutory Authority: RCW 69.50.201. WSR 79-04-048 (Order 147, Resolution No. 3-79), § 360-12-130, filed 3/27/79; Regulation 2, filed 3/23/60.]

246-863-095
Pharmacist's professional responsibilities.

(1) A pharmacist's primary responsibility is to ensure patients receive safe and appropriate medication therapy.

(2) A pharmacist shall not delegate the following professional responsibilities:

(a) Receipt of a verbal prescription other than refill authorization from a prescriber.

(b) Consultation with the patient regarding the prescription, both prior to and after the prescription filling and/or regarding any information contained in a patient medication record system provided that this shall not prohibit pharmacy ancillary personnel from providing to the patient or the patient's health care giver certain information where no professional judgment is required such as dates of refills or prescription price information.

(c) Consultation with the prescriber regarding the patient and the patient's prescription.

(d) Extemporaneous compounding of the prescription, however, bulk compounding from a formula and IV admixture products prepared in accordance with chapter 246-871 WAC may be performed by a pharmacy technician when supervised by a pharmacist.

(e) Interpretation of data in a patient medication record system.

(f) Ultimate responsibility for all aspects of the completed prescription and assumption of the responsibility for the filled prescription, such as: Accuracy of drug, strength, labeling, proper container and other requirements.

(g) Dispense prescriptions to patient with proper patient information as required by WAC 246-869-220.

(h) Signing of the poison register and the Schedule V controlled substance registry book at the time of sale in accordance with RCW 69.38.030 and WAC 246-887-030 and any other item required by law, rule or regulation to be signed or initialed by a pharmacist.

(i) Professional communications with physicians, dentists, nurses and other health care practitioners.

(j) Decision to not dispense lawfully prescribed drugs or devices or to not distribute drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies.

(3) Utilizing personnel to assist the pharmacist.

(a) The responsible pharmacist manager shall retain all professional and personal responsibility for any assisted tasks performed by personnel under his or her responsibility, as shall the pharmacy employing such personnel. The responsible pharmacist manager shall determine the extent to which personnel may be utilized to assist the pharmacist and shall assure that the pharmacist is fulfilling his or her supervisory and professional responsibilities.

(b) This does not preclude delegation to an intern or extern.

(4) It is considered unprofessional conduct for any person authorized to practice or assist in the practice of pharmacy to engage in any of the following:

(a) Destroy unfilled lawful prescription;

(b) Refuse to return unfilled lawful prescriptions;

(c) Violate a patient's privacy;

(d) Discriminate against patients or their agent in a manner prohibited by state or federal laws; and

(e) Intimidate or harass a patient.

Chapter 246-863 WAC

Last Update: 11/15/10

PHARMACISTS—LICENSING

[Statutory Authority: RCW 18.64.005, 18.130.050, 18.64.165, 18.130.180. WSR 07-14-025, § 246-863-095, filed 6/25/07, effective 7/26/07. Statutory Authority: RCW 18.64.005. WSR 96-02-005, § 246-863-095, filed 12/20/95, effective 1/20/96.]

246-863-100

Pharmacist prescriptive authority—Prior board notification of written guideline or protocol required.

(1) A pharmacist planning to exercise prescriptive authority in his or her practice (see RCW 18.64.011(11)) by initiating or modifying 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 must have on file at his/her place of practice a properly prepared written guideline or protocol indicating approval has been granted by a practitioner authorized to prescribe. A copy of the written guideline or protocol must also be on file with the board of pharmacy.

(2) For purposes of pharmacist prescriptive authority under RCW 18.64.011(11), a written guideline or protocol is defined as an agreement in which any practitioner authorized to prescribe legend drugs delegates to a pharmacist or group of pharmacists authority to conduct specified prescribing functions. Any modification of the written guideline or protocol shall be treated as a new protocol. It shall include:

(a) A statement identifying the practitioner authorized to prescribe and the pharmacist(s) who are party to the agreement. The practitioner authorized to prescribe must be in active practice, and the authority granted must be within the scope of the practitioners' current practice.

(b) A time period not to exceed 2 years during which the written guideline or protocol will be in effect.

(c) A statement of the type of prescriptive authority decisions which the pharmacist(s) is (are) authorized to make, which includes:

(i) A statement of the types of diseases, drugs, or drug categories involved, and the type of prescriptive authority activity (e.g., modification or initiation of drug therapy) authorized in each case.

(ii) A general statement of the procedures, decision criteria, or plan the pharmacist(s) is (are) to follow when making therapeutic decisions, particularly when modification or initiation of drug therapy is involved.

(d) A statement of the activities pharmacist(s) is (are) to follow in the course of exercising prescriptive authority, including documentation of decisions made, and a plan for communication or feedback to the authorizing practitioner concerning specific decisions made. Documentation may occur on the prescription record, patient drug profile, patient medical chart, or in a separate log book.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-19-086 (Order 163, Resolution No. 8/81), § 360-12-140, filed 9/17/81. Statutory Authority: RCW 18.64.005 (4) and (11). WSR 80-08-035 (Order 155, Resolution No. 6/80), § 360-12-140, filed 6/26/80, effective 9/30/80.]

246-863-110

Monitoring of drug therapy by pharmacists.

The term "monitoring drug therapy" used in RCW 18.64.011(11) shall mean a review of the drug therapy regimen of patients by a pharmacist for the purpose of evaluating and rendering advice to the prescribing practitioner regarding adjustment of the regimen. Monitoring of drug therapy shall include, but not be limited to:

(1) Collecting and reviewing patient drug use histories;

(2) Measuring and reviewing routine patient vital signs including, but not limited to, pulse, temperature, blood pressure and respiration; and

(3) Ordering and evaluating the results of laboratory tests relating to drug therapy including, but not limited to, blood chemistries and cell counts, drug levels in blood, urine, tissue or other body fluids, and culture and sensitivity tests when performed in accordance with policies and procedures or protocols applicable to the practice setting, which have been developed by the pharmacist and prescribing practitioners and which include appropriate mechanisms for reporting to the prescriber monitoring activities and results.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-110, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 87-18-066 (Order 207), § 360-12-150, filed 9/2/87. Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 83-20-053 (Order 176), § 360-12-150, filed 9/29/83. Statutory Authority: RCW 18.64.005 and 69.41.240. WSR 83-10-013 (Order 174), § 360-12-150, filed 4/26/83.]

246-863-120
AIDS prevention and information education requirements.

Applicants must complete seven clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-863-120, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-863-120, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-23-058 (Order 221), § 360-12-160, filed 11/15/88.]

Chapter 246-865 WAC

Last Update: 1/5/94

PHARMACEUTICAL SERVICES—EXTENDED CARE FACILITY

WAC Sections

246-865-010	Definitions.
246-865-020	Promulgation.
246-865-030	Emergency kit.
246-865-040	Supplemental dose kits.
246-865-050	Drug facilities.
246-865-060	Pharmaceutical services.
246-865-070	Provision for continuity of drug therapy for residents.

246-865-010
Definitions.

(1) "Board" means the Washington state board of pharmacy.

(2) "Department" means the state department of social and health services.

(3) "Dose" means the amount of drug to be administered at one time.

(4) "Drug facility" means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

(5) "Legend drug" means a drug bearing the legend, "Caution, federal law prohibits dispensing without a prescription."

(6) "Licensed nurse" means either a registered nurse or a licensed practical nurse.

(7) "Licensed practical nurse" means a person duly licensed under the provisions of the licensed practical nurse act of the state of Washington, chapter 18.78 RCW.

(8) "Nursing home" means any home, place or institution licensed as a nursing home under chapter 18.51 RCW.

(9) "Pharmaceutical services committee" means a committee which develops and maintains written policies and procedures for safe and effective drug therapy, distribution, control, and use which are current and followed in practice. The pharmaceutical services committee shall consist of a staff or consultant pharmacist, a physician, the director of nursing or his/her designee and the administer or his/her designee.

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy under the provisions of chapter 18.64 RCW.

(11) "Pharmacy" means a place where the practice of pharmacy is conducted, properly licensed under the provisions of chapter 18.64 RCW by the Washington state board of pharmacy.

(12) "Practitioner" means a physician under chapter 18.71 RCW; and osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW; a dentist under chapter 18.32 RCW; a podiatrist under chapter 18.22 RCW; an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the committee of osteopathic commissioners; a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners; a registered nurse when authorized by the board of nursing under chapter 18.88 RCW, or a pharmacist under chapter 18.64 RCW.

(13) "Registered nurse" means a person duly licensed under the provisions of the law regulating the practice of registered nursing in the state of Washington, chapter 18.88 RCW.

(14) "Unit-dose" means the ordered amount of a drug in an individually sealed package and in a dosage form ready for administration to a particular person by the prescribed route at the prescribed time.

(15) "Unit-dose drug distribution system" means a system of drug dispensing and control that is characterized by the dispensing of the majority of drugs in unit doses, ready to administer form, and for most drugs, not more than a 48-hour supply of doses is available at the residential care unit at any time.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 87-18-066 (Order 207), § 360-13-045, filed 9/2/87. Statutory Authority: RCW 18.64.005(11). WSR 81-06-077 (Order 158), § 360-13-045, filed 3/4/81; Order 121, § 360-13-045, filed 8/8/74.]

246-865-020
Promulgation.

In the interests of protecting public health the Washington state board of pharmacy shall hereby allow the use of an emergency drug kit in any nursing home holding a valid Washington state nursing home license. The emergency drug kit shall be considered to be a physical extension of the pharmacy supplying the emergency drug kit and shall at all times remain under the ownership of the supplying pharmacy.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-10-027 (Order 159), § 360-13-010, filed 4/28/81; Order 104, § 360-13-010, filed 12/5/69; Order 50 (part), filed 3/28/67.]

246-865-030
Emergency kit.

(1) The contents and quantity of drugs and supplies in the emergency kit shall be determined by the pharmaceutical services committee as defined in WAC 246-865-010(9) which shall consider the number of residents to be served and their potential need for emergency medications.

(2) A copy of the approved list of contents shall be conspicuously posted on or near the kit.

(3) The emergency kit shall be used only for bonafide emergencies and only when medications cannot be obtained from a pharmacy in a timely manner.

(4) Records documenting the receipt and removal of drugs in the emergency kit shall be maintained by the nursing home and the supplying pharmacy.

(5) The pharmaceutical services committee shall be responsible for ensuring proper storage, security and accountability of the emergency kit

(a) The emergency kit shall be stored in a locked area or be locked itself;

(b) Emergency kit drugs shall be accessible only to licensed nurses as defined in WAC 246-865-010(6).

(6) The contents of the emergency kit, the approved list of contents, and all related records shall be made freely available and open for inspection to representatives of the board of pharmacy and the department.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-865-030, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-06-077 (Order 158), § 360-13-020, filed 3/4/81; Order 104, § 360-13-020, filed 12/5/69; Order 50, subsection 1-12, filed 3/28/67.]

Chapter 246-865 WAC

Last Update: 1/5/94

PHARMACEUTICAL SERVICES—EXTENDED CARE FACILITY

246-865-040
Supplemental dose kits.

(1) In addition to an emergency kit, each institution holding a valid Washington state nursing home license, and which employs a unit dose drug distribution system, may maintain a supplemental dose kit for supplemental nonemergency drug therapy if the necessary drug is not available from the pharmacy in a timely manner.

(2) The pharmaceutical services committee shall determine the quantities of drugs in the supplemental dose kit in light of the number of residents in the facility and their potential needs for supplemental doses.

(3) The supplemental dose kit shall remain the property of the supplying pharmacy.

(4) The supplying pharmacy and the facility's pharmaceutical services committee shall be responsible for proper storage, security and accountability of the kit.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-06-077 (Order 158), § 360-13-030, filed 3/4/81; Order 114, § 360-13-030, filed 6/28/73.]

246-865-050
Drug facilities.

(1) There shall be facilities for drug preparation and storage near the nurses' station on each unit.

(2) The drug facilities shall be well illuminated, ventilated and equipped with a work counter, sink with hot and cold running water and drug storage units.

(3) The drug storage units shall provide:

(a) Locked storage for all drugs,

(b) Separately keyed storage for Schedule II and III controlled substances,

(c) Segregated storage of different resident's drugs.

(4) There shall be a refrigerator for storage of thermolabile drugs in the drug facility.

(5) Locks and keys, for drug facilities shall be different from other locks and keys within the nursing home.

(6) Poisons and other nonmedicinal chemical agents in containers bearing a warning label shall be stored in separate locked storage apart from drugs used for medicinal purposes.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-06-077 (Order 158), § 360-13-055, filed 3/4/81; Order 121, § 360-13-055, filed 8/8/74.]

246-865-060
Pharmaceutical services.

(1) Administration of pharmaceutical services.

(a) There shall be provision for timely delivery of drugs and biologicals from a pharmacy so a practitioner's orders for drug therapy can be implemented without undue delay.

(b) Unless the nursing home operates a licensed pharmacy and employs a director of pharmaceutical services, the nursing home shall have a written agreement with one or more licensed pharmacists who provide for pharmaceutical consultant services. The staff pharmacist or consultant pharmacist supervises the entire spectrum of pharmaceutical services in the nursing home.

(c) There shall be a pharmaceutical services committee whose membership includes at least a staff or consultant pharmacist, a physician, the director of nursing or his/her designee, and the administrator or his/her designee. The pharmaceutical services committee develops and maintains written policies and procedures for safe and effective drug therapy, distribution, control, and use which are current and followed in practice.

(d) Reference material regarding the use of medication, adverse reactions, toxicology, and poison control center information shall be available to facility staff.

(e) There shall be procedures established for the reporting and recording of medication errors and adverse drug reactions.

(2) A staff pharmacist or consultant pharmacist shall be responsible for coordinating pharmaceutical services which include:

(a) Provision of pharmaceutical services evaluations and recommendations to the administrative staff.

(b) On-site reviews to ensure that drug handling and utilization procedures are carried out in conformance with recognized standards of practice.

(c) Regularly reviewing each resident's therapy to screen for potential or existing drug therapy problems and documenting recommendations.

(d) Provision of drug information to the nursing home staff and physicians as needed.

(e) Planning and participating in the nursing home staff development program.

(f) Consultation regarding resident care services with other departments.

(3) Security and storage of drugs.

(a) The nursing home shall store drugs under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security as defined by regulation and accepted standards of practice.

(b) All drugs shall be stored in locked cabinets, rooms, or carts, and shall be accessible only to personnel licensed to administer or dispense drugs.

(c) Schedule III controlled substances shall be stored apart from other drugs on a separate shelf or in a separate compartment or cabinet, provided, however, Schedule III controlled substances may be stored with Schedule II controlled substances. Schedule III controlled substances can be stored with other drugs when distributed in a unit dose drug distribution system.

(d) Drugs for external use shall be stored apart from drugs for internal use, on a separate shelf or in a separate compartment or cabinet. Any shelf, compartment, or separate cabinet used for storage of external drugs shall be clearly labeled to indicate it is to be used for external drugs only.

(e) At all times, all keys to drug boxes, cabinets, and rooms shall be carried by persons legally authorized to administer drugs and on duty on the premises.

(f) If a supplemental dose kit within a unit dose drug distribution system is provided it must comply with WAC 246-865-040.

(g) If an emergency kit is provided, it shall comply with Washington state board of pharmacy regulations WAC 246-865-020 and 246-865-030.

(4) Labeling of drugs.

(a) The label for each legend drug which is not dispensed in a unit dose shall have the name and address of the pharmacy from which the drug was dispensed; the prescription number; the physician's name; the resident's full name; the date of issue; the initials of the dispensing pharmacist; the name and strength of the drug; a controlled substances schedule, if any; the amount (e.g., number of tablets or cc's) of the drug dispensed, and the expiration date. In the case of a compounded drug which contains Schedule II or III controlled substances, the quantity of each controlled substance per cc or teaspoonful shall be shown on the label.

(b) In a unit dose drug distribution system, a clear, legible label shall be printed or affixed securely to each unit dose package. Each unit dose drug label shall include: the name, strength and, for each unit dose package, the dosage amount of the drug; the expiration date for any time-dated drug; the lot or control number; and controlled substances schedule number, if any. Each individual drug compartment shall be labeled with the full name of the resident whose drug the compartment contains and the name of the resident's physician.

(c) Nonlegend drugs shall be clearly labeled with at least the patient's name, date of receipt by the facility, as well as display a manufacturer's original label or a pharmacy label if repackaged by the pharmacist. Nonlegend drugs supplied by the extended care facility pursuant to WAC 388-88-050 need not be labeled with the patient's name.

(d) A label on a container of drugs shall not be altered or replaced except by the pharmacist. Drug containers having soiled, damaged, incomplete, or makeshift labels shall be returned to the pharmacy for relabeling or disposal. Drugs in containers having no labels or illegible labels shall be destroyed.

(5) Control and accountability.

(a) The nursing home shall maintain and follow written procedures which provide for the accurate control and accountability of all drugs in the nursing home.

(b) No drugs may be returned from the nursing home to a pharmacy except as provided in paragraph (4)(d) or if the drug is returned in unopened unit dose packages.

(c) Drugs shall be released to a resident upon discharge only on specific written authorization of the attending physician. A receipt containing information sufficient to document the drug's destination, the person who received the drug, and the name and quantity of drugs released shall be entered in the resident's health record.

(d) All of an individual resident's drugs including Schedule III, IV and V controlled substances, that are discontinued by the physician and remain unused, shall be destroyed by a licensed nurse employee of the nursing home in the presence of a witness within 90 days after having been discontinued, and accurate records of destruction maintained except from drugs which are sealed in unit dose packages.

(e) Outdated, unapproved, contaminated, deteriorated, adulterated, or recalled drugs shall not be available for use in the nursing home.

(f) Except in the case of Schedule II controlled substances and drugs which are sealed in unit dose packages, drugs which remain in the nursing home after the patient has died or been discharged, and drugs in containers with illegible or missing labels, shall be immediately and irretrievably disposed of by a licensed nurse employee in the presence of a witness and proper records maintained of such disposal. Destruction of Schedule II drugs shall be handled in accordance with (6)(g). Unit dose packages may be returned to the pharmacy.

(6) Special requirements for controlled substances.

(a) All Schedule II controlled substances shall be stored in separately keyed and locked secure storage within a drug facility.

(b) Schedule III controlled substances shall be stored apart from other drugs and may be stored on a separate shelf, drawer, or compartment with Schedule II controlled substances.

(c) There shall be a record book for Schedule II and Schedule III controlled substances which shall be a bound book with consecutively numbered pages in which complete records of receipt and withdrawal of Schedule II and III controlled substances are maintained.

(d) At least once each 24 hours, the amount of all Schedule II controlled substances stored in the facility shall be counted by at least two persons who are legally authorized to administer drugs. A similar count shall be made of all Schedule III controlled substances at least weekly. Records of counts shall be entered in the Schedule II and III controlled substances book(s).

(e) When a resident is discharged, a record of release for any Schedule II or III controlled substances released shall be entered on the appropriate page for the given drug in the controlled substances record book.

(f) Any discrepancy in actual count of Schedule II or III controlled substances and the record shall be documented in the Schedule II or III controlled substances books and reported immediately to the responsible supervisor who shall investigate the discrepancy. Any discrepancy which has not been corrected within seven calendar days shall be reported to the consultant pharmacist and the Washington state board of pharmacy.

(g) Discontinued Schedule II controlled substances and all Schedule II controlled substances which remain after the discharge or death of residents shall:

(i) Be destroyed at the nursing home within 30 days by two of the following individuals: A licensed pharmacist, the director of nursing or a registered nurse designee, and a registered nurse employee of the nursing home with appropriate documentation maintained, or

(ii) Be destroyed at the nursing home by a representative of the Washington state board of pharmacy if so requested by the board or the nursing home.

(h) A nursing home may establish procedures which vary from those paragraphs (6)(a)(g) if they are using a unit dose drug distribution system and if that system provides for the accurate accounting, by the nursing home and the supplying pharmacy, of the receipt and disposition of all Schedule II and III controlled substances.

(7) Drug administration.

(a) Staff shall follow written procedures which provide for the safe handling and administration of drugs to residents.

(i) Drugs shall be administered only by persons licensed to administer drugs.

(ii) The resident shall be identified prior to administration.

(b) All drugs shall be identified up to the point of administration.

(c) Drugs shall be prepared immediately prior to administration and administered by the same person who prepares them except under a unit dose system.

(d) Drug administration shall be documented as soon as possible after the act of administration, and shall include:

(i) Verification of administration

(ii) Reasons for ordered doses not taken

(iii) Reasons for administration of, and response to drugs given on and as needed basis (PRN).

(e) Drug orders shall be received only by a licensed nurse and administered only on the written or verbal order of a practitioner. Verbal orders shall be signed by the prescribing practitioner in a timely manner.

(f) The self-administration of medication program shall provide evidence of:

(i) Assessment of the resident's capabilities

(ii) Instructions for administration

(iii) Monitoring of progress and compliance with orders

(iv) Safe storage of drugs.

Chapter 246-865 WAC

Last Update: 1/5/94

PHARMACEUTICAL SERVICES—EXTENDED CARE FACILITY

[Statutory Authority: RCW 18.64.005. WSR 94-02-077, § 246-865-060, filed 1/5/94, effective 2/5/94; WSR 92-12-035 (Order 277B), § 246-865-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-11-007 (Order 214), § 360-13-066, filed 5/9/88. Statutory Authority: RCW 18.64.005(11). WSR 81-14-055 (Order 161), § 360-13-066, filed 6/30/81.]

246-865-070

Provision for continuity of drug therapy for residents.

When a resident of a long term care facility has the opportunity for an unscheduled therapeutic leave that would be precluded by the lack of an available pharmacist to dispense drugs prescribed by an authorized practitioner, a registered nurse designated by the facility and its consultant or staff pharmacist and who agrees to such designation, may provide the resident or a responsible person with up to a 72-hour supply of a prescribed drug or drugs for use during that leave from the resident's previously dispensed package of such drugs. The drugs shall only be provided in accordance with protocols developed by the pharmaceutical services committee and the protocols shall be available for inspection. These protocols shall include the following:

(1) Criteria as to what constitutes an unscheduled therapeutic leave requiring the provision of drugs by the registered nurse;

(2) Procedures for repackaging and labeling the limited supply of previously dispensed drugs by the designated registered nurse that comply with all state and federal laws concerning the packaging and labeling of drugs;

(3) Provision to assure that none of the medication provided to the resident or responsible person may be returned to the resident's previously dispensed package of such drug or to the facility's stock.

(4) A record-keeping mechanism that will provide for the maintenance of a permanent log that includes the following information:

(a) The name of the person to whom the drug was provided;

(b) The drug and quantity provided;

(c) The date and time that the request for the drug was made;

(d) The date and time that the drug was provided;

(e) The name of the registered nurse that provided the drug;

(f) The conditions or circumstances that precluded a pharmacist from providing the drug.

Refer to WAC 246-839-810 for related regulations on this practice.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-865-070, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-865-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.41.240. WSR 83-10-013 (Order 174), § 360-13-100, filed 4/26/83.]

Chapter 246-867 WAC

Last Update: 5/28/92

IMPAIRED PHARMACIST REHABILITATION

WAC Sections

246-867-001	Purpose and scope.
246-867-010	Definitions.
246-867-020	Applicability.
246-867-030	Reporting and freedom from liability.
246-867-040	Approval of substance abuse monitoring programs.
246-867-050	Participation in approved substance abuse monitoring program.
246-867-060	Confidentiality.

246-867-001
Purpose and scope.

These rules are designed to assist the board of pharmacy regarding a registrant/licensee whose competency may be impaired due to the abuse of alcohol and/or drugs. The board intends that such registrants/licensees be treated and their treatment monitored so that they can return or continue to practice pharmacy with judgment, skill, competence, and safety to the public. To accomplish this, the board shall approve voluntary substance abuse monitoring programs and shall refer registrants/licensees impaired by substance abuse to approved programs.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-001, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-010, filed 1/17/90, effective 2/17/90.]

246-867-010
Definitions.

For the purpose of this chapter:

(1) "Chemical dependence - Substance abuse" means a chronic progressive illness which involves the use of alcohol and/or other drugs to a degree that it interferes in the functional life of the registrant/licensee, as manifested by health, family, job (professional services), legal, financial, or emotional problems.

(2) "Board" means the Washington state board of pharmacy.

(3) "Diversion" means illicit dispensing, distribution, or administration of a scheduled controlled substance or other legend drug not in the normal course of professional practice.

(4) "Drug" means a chemical substance alone or in combination, including alcohol.

(5) "Impaired pharmacist" means a pharmacist who is unable to practice pharmacy with judgment, skill, competence, or safety to the public due to chemical dependence, mental illness, the aging process, loss of motor skills, or any other mental or physical condition.

(6) "Approved substance abuse monitoring program" means a pharmacy recovery assistance program or program which the board has determined meets the requirement of the law and the criteria established by the board in WAC 246-867-040 which enters into a contract with pharmacists who have substance abuse problems regarding the required components of the pharmacists recovery activity and oversees the pharmacist's compliance with these requirements. Substance abuse monitoring programs do not provide evaluation or treatment to participating pharmacists.

(7) "Contract" means a comprehensive, structured agreement between the recovering pharmacist and the approved monitoring program stipulating the pharmacist's consent to comply with the monitoring program and its required components of the pharmacist's recovery program.

(8) "Approved treatment program" means a facility approved by the bureau of alcohol and substance abuse, department of social and health services according to RCW 70.96A.020(3) to provide concentrated alcoholism or drug addiction treatment if located within Washington state. Drug and alcohol addiction treatment programs located out-of-state must be equivalent to the standards required for approval under RCW 70.96A.020(3).

(9) "Aftercare" means that period of time after intensive treatment that provides the pharmacist and the pharmacist's family with group, or individualized counseling sessions, discussions with other families, ongoing contact and participation in self-help groups, and ongoing continued support of treatment program staff.

(10) "Twelve-step groups" means groups such as Alcoholics Anonymous, Narcotics Anonymous, Cocaine Anonymous, and related organizations based on a philosophy of anonymity, peer group associations, self-help belief in a power outside of oneself which offer support to the recovering individual to maintain a chemically free lifestyle.

(11) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse in body fluids which are performed at irregular intervals not known in advance by the person to be tested. The collection of the body fluid must be observed by a treatment or health care professional or other board or monitoring program-approved observer.

(12) "Recovering" means that a chemically dependent pharmacist is in compliance with a treatment plan of rehabilitation in accordance with criteria established by an approved treatment facility and an approved substance abuse monitoring program.

(13) "Rehabilitation" means the process of restoring a chemically dependent pharmacist to a level of professional performance consistent with public health and safety.

(14) "Reinstatement" means the process whereby a recovering pharmacist is permitted to resume the practice of pharmacy.

(15) "Pharmacist support group" means a group of pharmacists meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced pharmacist facilitator in which pharmacists may safely discuss drug diversion, licensure issues, return to work, and other issues related to recovery.

[Statutory Authority: RCW 18.64.005 and 18.130.050. WSR 92-12-035 (Order 277B), § 246-867-010, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-020, filed 1/17/90, effective 2/17/90.]

246-867-020
Applicability.

Chapter 246-867 WAC

Last Update: 5/28/92

IMPAIRED PHARMACIST REHABILITATION

This chapter is applicable to all registered/licensed externs, interns, pharmacists, and any pharmacy assistants. For the purpose of this chapter, the word "pharmacist" shall include externs, interns and pharmacy assistants, as defined under chapter 18.64A RCW.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-030, filed 1/17/90, effective 2/17/90.]

246-867-030
Reporting and freedom from liability.

(1) Reporting.
(a) If any pharmacist or pharmacy owner knows or suspects that a pharmacist is impaired by chemical dependence, mental illness, physical incapacity, or other factors, that person shall report any relevant information to a pharmacy recovery assistance program or to the board.
(b) If a person is required by law to report an alleged impaired pharmacist to the board, the requirement is satisfied when the person reports the pharmacist to a board-approved and contracted pharmacist recovery assistance program.
(2) Any person who in good faith reports information concerning a suspected impaired pharmacist to a pharmacy recovery assistance program or to the board shall be immune from civil liability.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-040, filed 1/17/90, effective 2/17/90.]

246-867-040
Approval of substance abuse monitoring programs.

The board will approve pharmacist recovery, assistance, and monitoring programs which will participate in the board's substance abuse monitoring program. The board may contract for these services.
(1) The approved monitoring program will not provide evaluation or treatment to participating pharmacists.
(2) The approved monitoring program/recovery assistance staff must have the qualifications and knowledge of both substance abuse and the practice of pharmacy as defined in this chapter to be able to evaluate:
(a) Clinical laboratories.
(b) Laboratory results.
(c) Providers of substance abuse treatment, both individuals and facilities.
(d) Pharmacist support groups.
(e) The pharmacist's work environment.
(f) The ability of the pharmacist to practice with reasonable skill and safety.

(3) The approved monitoring program will enter into a contract with the pharmacist and the board to oversee the pharmacists' compliance with the requirements of the program.

(4) The approved monitoring program may make exceptions to individual components of the contract on an individual basis.

(5) The approved monitoring program staff will determine, on an individual basis, whether a pharmacist will be prohibited from engaging in the practice of pharmacy for a period of time and restrictions, if any, on the pharmacist's access to controlled substances in the work place.

(6) The approved monitoring program shall maintain records on participants.

(7) The approved monitoring program will be responsible for providing feedback to the pharmacist as to whether treatment progress is acceptable.

(8) The approved monitoring program shall report to the board any pharmacist who fails to comply with the requirements of the monitoring program.

(9) The approved monitoring program shall provide the board with a statistical report on the program, including progress of participants, at least annually.

(10) The approved monitoring program shall receive from the board guidelines on treatment, monitoring, and limitations on the practice of pharmacy for those participating in the program.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-050, filed 1/17/90, effective 2/17/90.]

246-867-050
Participation in approved substance abuse monitoring program.

(1) The pharmacist who has been investigated by the board may accept board referral into the approved substance abuse monitoring program. This may be part of disciplinary action.

(a) The pharmacist shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by health care professionals with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The pharmacist shall enter into a contract with the board and the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The pharmacist will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The pharmacist will agree to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within fourteen days of the date care was provided.

(iii) The pharmacist must complete the prescribed aftercare program of the intensive treatment facility. This may include individual and/or group psychotherapy.

(iv) The pharmacist must cause the treatment counselor(s) and authorized prescriber(s) to provide reports to the appropriate monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc.

(v) The pharmacist shall submit to random drug screening, with observed specimen collection, as specified by the approved monitoring program.

(vi) The pharmacist will attend pharmacist support groups facilitated by a pharmacist and/or twelve-step group meetings as specified by the contract.

(vii) The pharmacist will comply with specified employment conditions and restrictions as defined by the contract.

(viii) The pharmacist shall sign a waiver allowing the approved monitoring program to release information to the board if the pharmacist does not comply with the requirements of this contract.

(c) The pharmacist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, random urine screens, and other personal expenses incurred in compliance with this contract.

(d) The pharmacist may be subject to disciplinary action under RCW 18.64.160 if the pharmacist does not consent to be referred to the approved monitoring program, does not comply with specified employment restrictions, or does not successfully complete the program.

(2) A pharmacist who is not being investigated by the board or subject to current disciplinary action or currently being monitored by the board for substance abuse may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.64.160 for their substance abuse and shall not have their participation known to the board if they meet the requirements of the approved monitoring program:

(a) The pharmacist shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by a health care professional with expertise in chemical dependency. The person(s) performing the evaluation shall not also be the provider of the recommended treatment.

(b) The pharmacist shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to:

(i) The pharmacist will undergo intensive substance abuse treatment in an approved treatment facility.

(ii) The pharmacist will agree to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within fourteen days of the date care was provided.

(iii) The pharmacist must cause the treatment counselor(s) and authorized prescriber(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc.

(v) The pharmacist shall submit to random drug screening, with observed specimen collection, as specified by the approved monitoring program.

(vi) The pharmacist will attend pharmacist support groups facilitated by a pharmacist and/or twelve-step group meetings as specified by the contract.

(vii) The pharmacist will comply with specified employment conditions and restrictions as defined by the contract.

(viii) The pharmacist shall sign a waiver allowing the approved monitoring program to release information to the board if the pharmacist does not comply with the requirements of this contract.

(c) The pharmacist is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse treatment, random urine screens, and other personal expenses incurred in compliance with this contract.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-060, filed 1/17/90, effective 2/17/90.]

246-867-060
Confidentiality.

(1) The treatment and pretreatment records of license holders referred to or voluntarily participating in approved monitoring programs shall be confidential, shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena or admissible as evidence except for monitoring records reported to the disciplinary authority for cause as defined in WAC 246-867-050 (1) and (2). Records held by the board under this section shall be exempt from RCW 42.17.250 through 42.17.450 and shall not be subject to discovery by subpoena except by the license holder.

(2) Notwithstanding subsection (1) of this section, board orders shall be subject to RCW 42.17.250 through 42.17.450.

[Statutory Authority: RCW 18.64.005 and 18.130.050. WSR 92-12-035 (Order 277B), § 246-867-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-867-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-054 (Order 025), § 360-15-070, filed 1/17/90, effective 2/17/90.]

Chapter 246-869 WAC

Last Update: 9/14/09

PHARMACY LICENSING

WAC Sections

246-869-010 Pharmacies' responsibilities.
246-869-020 Pharmacies and differential hours.
246-869-030 Pharmacy license notice requirements.
246-869-040 New pharmacy registration.
246-869-060 Employers to require evidence of pharmacist's qualifications.
246-869-070 Responsible manager—Appointment.
246-869-080 Clinic dispensaries.
246-869-090 Prescription transfers.
246-869-100 Prescription record requirements.
246-869-110 Refusal to permit inspection.
246-869-120 Mechanical devices in hospitals.
246-869-130 Return or exchange of drugs.
246-869-140 Prescription department—Conversing with pharmacist prohibited.
246-869-150 Physical standards for pharmacies—Adequate stock.
246-869-160 Physical standards for pharmacies—Adequate facilities.
246-869-170 Physical standards for pharmacies—Sanitary conditions.
246-869-180 Physical standards for pharmacies—Adequate equipment.
246-869-190 Pharmacy inspections.
246-869-200 Poison control.
246-869-210 Prescription labeling.
246-869-220 Patient counseling required.
246-869-230 Child-resistant containers.
246-869-235 Prescription drug repackaging—Definitions.
246-869-250 Closing a pharmacy.
246-869-255 Customized patient medication packages.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-869-050 Pharmacy license renewal. [Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-050, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-14-041 (Order 215), § 360-16-025, filed 6/30/88. Statutory Authority: RCW 18.64.043. WSR 84-12-019 (Order 186), § 360-16-025, filed 5/25/84.] Repealed by WSR 98-05-060, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.280.

246-869-095 Facsimile transmission of prescription orders. [Statutory Authority: RCW 18.64.005. WSR 92-14-032 (Order 283B), § 246-869-095, filed 6/23/92, effective 7/24/92.] Repealed by WSR 05-07-108, filed 3/18/05, effective 4/18/05. Statutory Authority: RCW 18.64.005.

246-869-240 Pharmacist's professional responsibilities. [Statutory Authority: RCW 18.64.005. WSR 92-08-058 (Order 260B), § 246-869-240, filed 3/26/92, effective 4/26/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-240, filed 8/30/91, effective 9/30/91; Order 129, § 360-16-290, filed 7/13/76; Order 127, § 360-16-290, filed 12/1/75.] Repealed by WSR 96-03-016, filed 1/5/96, effective 2/5/96. Statutory Authority: RCW 18.64.005.

246-869-260 Pharmacist supervised sales—General. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-260, filed 8/30/91, effective 9/30/91;

Regulation 15, filed 3/23/60.] Repealed by WSR 97-20-165, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-869-010
Pharmacies' responsibilities.

(1) Pharmacies have a duty to deliver lawfully prescribed drugs or devices to patients and to distribute drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies, or provide a therapeutically equivalent drug or device in a timely manner consistent with reasonable expectations for filling the prescription, except for the following or substantially similar circumstances:

(a) Prescriptions containing an obvious or known error, inadequacies in the instructions, known contraindications, or incompatible prescriptions, or prescriptions requiring action in accordance with WAC 246-875-040.

(b) National or state emergencies or guidelines affecting availability, usage or supplies of drugs or devices;

(c) Lack of specialized equipment or expertise needed to safely produce, store, or dispense drugs or devices, such as certain drug compounding or storage for nuclear medicine;

(d) Potentially fraudulent prescriptions; or

(e) Unavailability of drug or device despite good faith compliance with WAC 246-869-150.

(2) Nothing in this section requires pharmacies to deliver a drug or device without payment of their usual and customary or contracted charge.

(3) If despite good faith compliance with WAC 246-869-150, the lawfully prescribed drug or device is not in stock, or the prescription cannot be filled pursuant to subsection (1)(a) of this section, the pharmacy shall provide the patient or agent a timely alternative for appropriate therapy which, consistent with customary pharmacy practice, may include obtaining the drug or device. These alternatives include but are not limited to:

(a) Contact the prescriber to address concerns such as those identified in subsection (1)(a) of this section or to obtain authorization to provide a therapeutically equivalent product;

(b) If requested by the patient or their agent, return unfilled lawful prescriptions to the patient or agent; or

(c) If requested by the patient or their agent, communicate or transmit, as permitted by law, the original prescription information to a pharmacy of the patient's choice that will fill the prescription in a timely manner.

(4) Engaging in or permitting any of the following shall constitute grounds for discipline or other enforcement actions:

(a) Destroy unfilled lawful prescription.

(b) Refuse to return unfilled lawful prescriptions.

(c) Violate a patient's privacy.

(d) Discriminate against patients or their agent in a manner prohibited by state or federal laws.

(e) Intimidate or harass a patient.

[Statutory Authority: RCW 18.64.005, 18.130.050, 18.64.165, 18.130.180. WSR 07-14-025, § 246-869-010, filed 6/25/07, effective 7/26/07.]

246-869-020
Pharmacies and differential hours.

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(1) A pharmacy must provide adequate security for its drug supplies and records and in the absence of a pharmacist the pharmacy must be closed and access limited to persons authorized by the pharmacist; for example, janitorial services, inventory services, etc. If a pharmacy is located within a larger mercantile establishment which is open to the public for business at times when a pharmacist is not present then the pharmacy must be enclosed by solid partitions at least seven feet in height, from the floor, which are sufficient to provide adequate security for the pharmacy. In the absence of a pharmacist such pharmacies must be locked and secured so that only persons authorized by the pharmacist can gain access, provided however that employees of the mercantile establishment cannot be authorized to enter the closed pharmacy during those hours that the mercantile establishment is open to the public for business.

(2) All equipment and records referred to in WAC 246-869-180 and all drugs, devices, poisons and other items or products which are restricted to sale either by or under the personal supervision of a pharmacist must be kept in the pharmacy area.

(3) Written prescription orders and refill request can be delivered to a pharmacy at any time. But if no pharmacist is present then the prescription orders must be deposited, by the patient or his agent delivering the prescription order or refill request to the establishment, into a "mail slot" or "drop box" such that the prescription order is stored in the pharmacy area. The times that the pharmacy is open for business must be so displayed that they are prominently visible to the person depositing the prescription orders.

(4) Prescriptions shall be stored in the pharmacy and cannot be removed from the pharmacy unless the pharmacist is present and the removal is for the immediate delivery to the patient, person picking up the prescription for the patient, or person delivering the prescription to the patient at his residence or similar place.

(5) No drugs, devices, poisons and other items or products which are restricted to sale either by or under the personal supervision of a pharmacist can be sold or delivered without a pharmacist being present in the pharmacy.

(6) Any pharmacy having hours differing from the remainder of an establishment shall have a separate and distinct telephone number from that business establishment. The phone shall not be answerable in the remainder of the establishment unless all conversations, when the pharmacist is absent, are recorded and played back by the pharmacist.

(7) Oral prescriptions cannot be taken if a pharmacist is not present unless it is taken on a recording which must inform the caller as to the times the pharmacy is open.

(8) A pharmacy must prominently display in a permanent manner on or adjacent to its entrance the times that it is open for business. If a pharmacy is located within a larger mercantile establishment having hours of operation different from the pharmacy then the pharmacy times of being open for business shall be prominently displayed in a permanent manner at the pharmacy area and on or adjacent to the entrance to the mercantile establishment.

(9) Any advertising by the mercantile establishment which makes reference to the pharmacy or those products which are sold only in the pharmacy which in such advertising sets forth the days and hours that the mercantile establishment is open to the public for business must also indicate the days and hours that the pharmacy is open to the public for business.

(10) Any person desiring to operate a pharmacy within an establishment having hours of business differing from the pharmacy must notify the board of pharmacy at least thirty days prior to commencing such differential hours. In order to constitute notification the applicant must complete the file forms provided by the board providing the required information. Board inspection and approval must be completed prior to the commencing of such differential hours. Such inspection and approval or disapproval shall be within 10 days of receiving notification that the premises are ready for inspection. Approval or disapproval shall be predicated upon compliance with this rule and pharmacy standards under chapter 246-869 WAC.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-020, filed 8/30/91, effective 9/30/91; Order 106, § 360-16-005, filed 9/11/70.]

246-869-030
Pharmacy license notice requirements.

(1) Applications for a new pharmacy license must be submitted at least thirty days prior to the next regularly scheduled board meeting and the board shall require the submission of proof of the applicant's identity, and qualifications and such other information as may be necessary to properly evaluate the application, and, at its option, the board may require a personal interview at the next scheduled board meeting.

(2) In case of change of ownership or location of a pharmacy, the original license comes void and must be returned with a new application, as set forth in paragraph (1) above, and the statutorily required fees.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-030, filed 8/30/91, effective 9/30/91; Order 114, § 360-16-011, filed 6/28/73.]

246-869-040
New pharmacy registration.

The state board of pharmacy shall issue no new pharmacy registrations after December 1, 1976 unless:

(1) The pharmacy will operate a bona fide prescription department, with such equipment, facilities, supplies and pharmaceuticals as are specified by state board regulations;

(2) The pharmacy passes inspection with a minimum of an "A" grade;

(3) The pharmacy in a new or remodeled building can produce evidence of being built or remodeled in accordance with all building, health and fire codes required for the particular area.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-040, filed 8/30/91, effective 9/30/91; Order 130, § 360-16-020, filed 11/10/76; Regulation 10, filed 3/23/60.]

246-869-060
Employers to require evidence of pharmacist's qualifications.

It shall be the duty of every employer to require suitable evidence of qualifications to practice pharmacy before they permit anyone to be in charge, compound or dispense drugs on their premises.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-060, filed 8/30/91, effective 9/30/91; Regulation 19 (part), filed 3/23/60.]

Chapter 246-869 WAC

Last Update: 9/14/09

PHARMACY LICENSING

246-869-070
Responsible manager—Appointment.

Every nonlicensed proprietor of one or more pharmacies shall place in charge of each pharmacy a licensed pharmacist who shall be known as the "responsible manager." The nonlicensed proprietor shall immediately report to the state board of pharmacy the name of the "responsible manager," who shall ensure that the pharmacy complies with all the laws, rules and regulations pertaining to the practice of pharmacy. Every portion of the establishment coming under the jurisdiction of the pharmacy laws shall be under the full and complete control of such responsible manager. A now-licensed proprietor shall at once notify the board of pharmacy of the termination of employment of a responsible manager. Please refer to WAC 246-863-060 for additional information.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-070, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 79-10-007 (Order 151, Resolution No. 9/79), § 360-16-050, filed 9/6/79; Regulation 6, filed 3/23/60.]

246-869-080
Clinic dispensaries.

The clinics of this state shall place their dispensaries in charge of a registered pharmacist, or the dispensing must be done by each prescribing physician in person.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-080, filed 8/30/91, effective 9/30/91; Regulation 9, filed 3/23/60.]

246-869-090
Prescription transfers.

The transfer of original prescription information for a noncontrolled substance legend drug for the purpose of refill dispensing is permissible between pharmacies subject to the following requirements:

(1) The transfer is communicated directly between two licensed pharmacists and the transferring pharmacist records the following information:

(a) Record in the patient medication record system that a copy has been issued.

(b) Record in the patient medication record system the name and address of the pharmacy to which it was transferred and the name of the pharmacist receiving the prescription information.

(2) The pharmacist receiving the transferred prescription information shall reduce to writing the following:

(a) Write the word "TRANSFER" on the face of the transferred prescription.

(b) Provide all information required to be on the prescription - patient's name and address; prescriber's name and address, and also include:

(i) Date of issuance of original prescription.

(ii) Number of valid refills remaining and date of last refill.

(iii) The pharmacy's name, address, and original prescription number from which the prescription information was transferred.

(iv) Name of transferor pharmacist.

(c) Both the original and transferred prescription must be maintained as if they were original prescriptions.

(d) A transferred prescription may not be refilled after one year from the date the original was issued.

(e) The above subsections apply to the transfer of prescription information for noncontrolled substances. The transfer of controlled substance prescription information must conform to the requirements of 21 C.F.R. 1306.25.

(3) When a prescription is transferred, no further refills shall be issued by the transferring pharmacy.

(4) If two or more pharmacies utilize a common electronic data base for prescription recordkeeping, prescriptions may be refilled at any of these pharmacies as long as there is provided an audit trail which documents the location of each filling and provisions are made to assure that the number of authorized refills are not exceeded.

[Statutory Authority: RCW 18.64.005 and 69.41.050. WSR 09-19-068, § 246-869-090, filed 9/14/09, effective 10/15/09. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-23-058 (Order 221), § 360-16-094, filed 11/15/88.]

246-869-100
Prescription record requirements.

(1) Records for the original prescription and refill records shall be maintained on the filled prescription or in a separate record book or patient medication record. Such records must be maintained for a period of at least two years and shall be made available for inspection to representatives of the board of pharmacy.

(2) The pharmacist shall be required to insure that the following information be recorded:

(a) Original prescription—At the time of dispensing, a serial number, date of dispensing, and the initials of the responsible pharmacist shall be placed on the face of the prescription. The patient's address must be readily available to the pharmacist, either from the face of the prescription, a record book, patient medication record, or hospital or clinic record.

(b) Refill prescription authorization—Refills for prescription for legend drugs must be authorized by the prescriber prior to the dispensing of the refill prescription.

(c) Refill prescription—At the time of dispensing, the date of refilling, quantity of the drug (if other than original), the name of authorizing person (if other than original), and the initials of the responsible pharmacist shall be recorded on the back side of the prescription, or in a separate record book or patient medication record.

(d) Prescription refill limitations—No prescription may be refilled for a period longer than one year from the date of the original prescription. "PRN" prescriptions shall expire at the end of one year. Expired prescriptions require authorization before filling. If granted a new prescription shall be written and placed in the files.

(e) Prescription copies—Prescription copies and prescription labels presented for filling must be considered as informational only, and may not be used as the sole document. The prescriber shall be contacted for complete information and authorization. If granted, a new prescription shall be written and placed on file. Copies of prescriptions must be clearly identified as such on the face of the prescription. The transfer of original prescription information is permitted if the provisions of WAC 246-869-090 are met.

(f) Emergency refills—If the prescriber is not available and in the professional judgment of the pharmacist an emergency need for the medication has been demonstrated, the pharmacist may dispense enough medication to last

until a prescriber can be contacted - but not to exceed 72 hours' supply. The prescriber shall be promptly notified of the emergency refill.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-100, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-22-046, § 360-16-096, filed 10/30/89, effective 11/30/89; WSR 88-23-058 (Order 221), § 360-16-096, filed 11/15/88; Order 131, § 360-16-096, filed 2/4/77; Order 126, § 360-16-096, filed 5/21/75; Order 117, § 360-16-096, filed 11/9/73; Regulation 49, filed 12/1/65.]

246-869-110
Refusal to permit inspection.

The refusal to permit an authorized representative of the Washington state board of pharmacy to examine during normal business hours the premises, inventory and/or records relating to drugs of licensed wholesalers, manufacturers, pharmacies and shopkeepers constitutes grounds for the suspension or revocation of the establishment's license and/or that of the pharmacist refusing such requested examination.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-110, filed 8/30/91, effective 9/30/91; Order 109, § 360-16-098, filed 5/23/72; Order 103, § 360-16-098, filed 12/5/69.]

246-869-120
Mechanical devices in hospitals.

Mechanical devices for storage of floor stock, shall be limited to hospitals and shall comply with all the following provisions:

(1) All drugs and medicines to be stocked in the device shall be prepared for use in the device by or under the direct supervision of a registered pharmacist in the employ of the hospital and shall be prepared in the hospital from the hospital stock in which the drug is to be administered. "Hospital" shall mean any hospital licensed by the state department of health or under the direct supervision of the state department of institutions.

(2) Such device shall be stocked with drugs and medicines only by a registered pharmacist in the employ of the hospital.

(3) A registered pharmacist in the employ of the hospital shall be personally responsible for the inventory and stocking of drugs and medicines in the device and he shall be personally responsible for the condition of the drugs and medicines stored in the device.

(4) A registered pharmacist in the employ of the hospital shall be the only person having access to that portion, section, or part of the device in which the drugs or medicines are stored.

(5) All containers of drugs or medicines to be stored in the device shall be correctly labeled to include: Name, strength, route of administration and if applicable, the expiration date.

(6) At the time of the removal of any drug or medicine from the device, the device shall automatically make a written record showing the name, strength, and quantity of the drug or medicine removed, the name of the patient for whom the drug or medicine was ordered, and the identification of the nurse removing the drug or medicine

from the device. The record must be maintained for two years by the hospital and shall be accessible to the pharmacist.

(7) Medical practitioners authorized to prescribe, pharmacists authorized to dispense, or nurses authorized to administer such drugs shall be the only persons authorized to remove any drug or medicine from the device and such removal by a nurse or medical practitioner shall be made only pursuant to a chart order. An identification mechanism, required to operate the device shall be issued permanently to each operator while the operator is on the staff of, or employed by the hospital. Such mechanism must imprint the operator's name or number if it permits the device to operate.

(8) The device shall be used only for the furnishing of drugs or medicines for administration in the hospital to registered in-patients or emergency patients in the hospital.

(9) Every hospital seeking approval to use any device shall, prior to installation of the device, register with the board by filing an application. Such application shall contain: The name and address of the hospital; the name of the registered pharmacist who is to be responsible for stocking the device; the manufacturer's name and model, description, and the proposed location of each device in the hospital.

(10) No such device shall be used until approval has been granted by the board, and no change in the location of the device or in the registered pharmacist responsible for stocking the device shall be made without prior written notice to the board. No such device shall be removed from the licensed premises without prior approval of the board.

(11) As used in this section, a "pharmacist in the employ of the hospital" shall not include any pharmacist who is, or is employed by, a manufacturer, wholesaler, distributor, or itinerant vendor of drugs or medicines.

(12) Each and every device approved by the board shall be issued a certificate of location. Such certificate must be conspicuously displayed on the device and contain the following:

(a) Name and address of the hospital

(b) Name of the registered pharmacist who is to be responsible for stocking the device

(c) Location of the device in the hospital

(d) Manufacturer's name of the device and the serial number of the device.

(13) Upon any malfunction the device shall not be used until the malfunction has been corrected.

(14) A copy of this regulation shall be attached to each and every device certified by the board of pharmacy.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-120, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-120, filed 8/30/91, effective 9/30/91; Regulation 47, filed 12/1/65.]

246-869-130
Return or exchange of drugs.

Except as provided in this rule, prescriptions, drugs, medicines, sick room supplies and items of personal hygiene shall not be accepted for return or exchange by any pharmacist or pharmacy after such prescriptions, drugs, medicines, sick room supplies or items of personal hygiene have been taken from the premises where sold, distributed or dispensed.

(1) Those drugs and sick room supplies legally dispensed by prescription in unit dose forms or in sealed single or multiple dose ampoules or vials in which the pharmacist can readily determine that entry or attempted entry by any means has not been made and which, in the pharmacist's professional judgment, meet the standards of the United States Pharmacopeia for storage conditions including temperature, light sensitivity, chemical and physical stability may be returned.

(2) Pharmacies serving hospitals and long-term care facilities may accept for return and reuse, unit dose packages or full or partial multiple dose medication cards based on the following criteria;

(a) The pharmacist can readily determine that entry or attempt at entry to the unit dose package or blister card has not been made;

(b) In the pharmacist's professional judgment, the unit dose package or full or partial multiple dose medication card meets the standards of the United States Pharmacopeia for storage conditions including temperature, light sensitivity, chemical and physical stability;

(c) The drug has been stored in such a manner as to prevent contamination by a means that would affect the efficacy and toxicity of the drug;

(d) The drug has not come into physical possession of the person for whom it was prescribed and control of the drug being returned is known to the pharmacist to have been the responsibility of a person trained and knowledgeable in the storage and administration of drugs;

(e) The drug labeling or packaging has not been altered or defaced so that the identity of the drug, its potency, lot number, and expiration date is retrievable.

(f) If the drug is prepackaged, it shall not be mixed with drugs of different lot numbers and/or expiration dates unless the specific lot numbers are retrievable and the expiration dates accompany the drug. If the drug is extemporaneously packaged, it shall not be mixed with drugs of different expiration dates unless the earliest expiration date appears on the label of the drug.

(3) This rule shall not include items such as orthopedic appliances, crutches, canes, wheelchairs and other similar items unless otherwise prohibited.

(4) Controlled substances shall not be returned to a pharmacy except for destruction in accordance with rules of the drug enforcement administration or the Washington state board of pharmacy.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-130, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-12-020 (Order 187), § 360-16-150, filed 5/25/84; Regulation 28, filed 3/23/60.]

246-869-140
Prescription department—Conversing with pharmacist prohibited.

Henceforth the prescription department of every licensed pharmacy in the state of Washington shall be protected against trespass by the lay public. No person shall be permitted to converse with a registered pharmacist while he or she is engaged in compounding a prescription, except nothing in this promulgation shall prevent one pharmacist from consulting with another pharmacist, a physician, a dentist or a veterinary surgeon, regarding the contents or technique connected with or pertaining to, the prescription being compounded.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-140, filed 8/30/91, effective 9/30/91; Regulation 37, filed 11/23/60.]

246-869-150
Physical standards for pharmacies—Adequate stock.

(1) The pharmacy must maintain at all times a representative assortment of drugs in order to meet the pharmaceutical needs of its patients.

(2) Dated items—All merchandise which has exceeded its expiration date must be removed from stock.

(3) All stock and materials on shelves or display for sale must be free from contamination, deterioration and adulteration.

(4) All stock and materials must be properly labeled according to federal and state statutes, rules and regulations.

(5) Devices that are not fit or approved by the FDA for use by the ultimate consumer shall not be offered for sale and must be removed from stock.

(6) All drugs shall be stored in accordance with USP standards and shall be protected from excessive heat or freezing except as those drugs that must be frozen in accordance with the requirements of the label. If drugs are exposed to excessive heat or frozen when not allowed by the requirements of the label, they must be destroyed.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-150, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 85-11-066 (Order 194), § 360-16-200, filed 5/21/85; Order 131, § 360-16-200, filed 2/4/77; Order 51 (part), filed 8/15/67.]

246-869-160
Physical standards for pharmacies—Adequate facilities.

(1) The prescription department shall be well lighted (adequately to allow any person with normal vision to read a label without strain, 30-50 foot candles).

(2) The prescription department shall be well ventilated. There shall be a constant flow of air through the area.

(3) There shall be a minimum of three linear feet by a minimum of 18 inches in depth of counter working space for each pharmacist or intern compounding or filling prescriptions at the same time.

(4) The prescription counter shall be uncluttered and clean at all times. Only those items necessary to the filling of prescriptions shall be thereon. (Profile systems are excepted.)

(5) There shall be a sink with hot and cold running water in the prescription compounding area.

(6) There shall be refrigeration facilities with a thermometer in the prescription compounding area for the storage of pharmaceutical items requiring refrigeration. USP standards of refrigeration require that the temperature be maintained between two degrees and eight degrees Centigrade (36 degrees and 46 degrees Fahrenheit). A locked refrigerator in the immediate vicinity of the prescription department will meet the requirements of this paragraph.

(7) The prescription department shall be situated so that the public shall not have free access to the area where legend drugs, controlled substances, poisons, or other restricted items are stored, compounded or dispensed.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-160, filed 8/30/91, effective 9/30/91; Order 131, § 360-16-210, filed 2/4/77; Order 51 (part), filed 8/15/67.]

246-869-170
Physical standards for pharmacies—Sanitary conditions.

(1) The walls, ceilings, floors and windows shall be clean, free from cracked and peeling paint or plaster, and in general good repair and order.

(2) Adequate trash receptacles shall be available, both in the prescription compounding and in the retail areas.

(3) If a restroom is provided, there must be a sink with hot and cold running water, soap and towels, and the toilet must be clean and sanitary.

(4) All equipment must be kept in a clean and orderly manner. That equipment used in the compounding of prescriptions (counting, weighing, measuring, mixing and stirring equipment) must be clean and in good repair.

(5) All professional personnel and staff, while working in the pharmacy, shall keep themselves and their apparel neat and clean.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-170, filed 8/30/91, effective 9/30/91; Order 131, § 360-16-220, filed 2/4/77; Order 51 (part), filed 8/15/67.]

246-869-180
Physical standards for pharmacies—Adequate equipment.

(1) All pharmacies shall have in their possession the equipment and supplies necessary to compound, dispense, label, administer and distribute drugs and devices. The equipment shall be in good repair and shall be available in sufficient quantity to meet the needs of the practice of pharmacy conducted therein.

(2) All pharmacies will have in their possession one up-to-date copy of the state of Washington statutes and rules governing the practice of pharmacy, the sale and dispensing of drugs, poisons, controlled substances, and medicines. Electronic or online versions are acceptable.

(3) All pharmacies shall have up-to-date references in order for the pharmacist(s) to furnish patients and practitioners with information concerning drugs.

[Statutory Authority: RCW 18.64.005. WSR 09-08-085, § 246-869-180, filed 3/30/09, effective 4/30/09. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-180, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 85-11-066 (Order 194), § 360-16-230, filed 5/21/85; WSR 84-03-015 (Order 180), § 360-16-230, filed 1/9/84; Order 131, § 360-16-230, filed 2/4/77; Order 118, § 360-16-230, filed 1/2/74; Order 51 (part), filed 8/15/67.]

246-869-190
Pharmacy inspections.

(1) All pharmacies shall be subject to periodic inspections to determine compliance with the laws regulating the practice of pharmacy.

(2) Each inspected pharmacy shall receive a classification rating which will depend upon the extent of that pharmacy's compliance with the inspection standards.

(3) There shall be three rating classifications:

(a) "Class A" - for inspection scores of 90 to 100;

(b) "Conditional" - for inspection scores of 80 to 89; and,

(c) "Unsatisfactory" - for inspection scores below 80.

(4) Any pharmacy receiving a conditional rating shall have sixty days to raise its inspection score rating to 90 or better. If upon reinspection after sixty days, the pharmacy fails to receive a rating of 90 or better, then the pharmacy will be subject to disciplinary action.

(5) Any pharmacy receiving an unsatisfactory rating shall have fourteen days to raise its inspection score rating to 90 or better. If upon reinspection after fourteen days, the pharmacy fails to receive a rating of 90 or better, then the pharmacy will be subject to disciplinary action.

(6) The certificate of inspection must be posted in conspicuous view of the general public and shall not be removed or defaced.

(7) Noncompliance with the provisions of chapter 18.64A RCW (Pharmacy assistants) and, chapter 246-901 WAC (Pharmacy assistants) resulting in a deduction of at least five points shall result in an automatic unsatisfactory rating regardless of the total point score.

(8) Pharmacies receiving an unsatisfactory rating which represent a clear and present danger to the public health, safety and welfare will be subject to summary suspension of the pharmacy license.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-190, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-190, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 87-08-031 (Order 205), § 360-16-235, filed 3/27/87.]

246-869-200
Poison control.

(1) The telephone number of the nearest poison control center shall be readily available.

(2) Each pharmacy shall maintain at least one ounce bottle of Ipecac syrup in stock at all times.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-200, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 87-08-031 (Order 205), § 360-16-245, filed 3/27/87; Order 120, § 360-16-245, filed 3/11/74.]

246-869-210
Prescription labeling.

To every prescription container, there shall be fixed a label or labels bearing the following information:

(1) All information as required by RCW 18.64.246, provided that in determining an appropriate period of time for which a prescription drug may be retained by a patient after its dispensing, the dispenser shall take the following factors into account:

(a) The nature of the drug;

(b) The container in which it was packaged by the manufacturer and the expiration date thereon;

(c) The characteristics of the patient's container, if the drug is repackaged for dispensing;

(d) The expected conditions to which the article may be exposed;

(e) The expected length of time of the course of therapy; and

(f) Any other relevant factors.

The dispenser shall, on taking into account the foregoing, place on the label of a multiple unit container a suitable beyond-use date or discard-by date to limit the patient's use of the drug. In no case may this date be later than the original expiration date determined by the manufacturer.

(2) The quantity of drug dispensed, for example the volume or number of dosage units.

(3) The following statement, "Warning: State or federal law prohibits transfer of this drug to any person other than the person for whom it was prescribed."

(4) The information contained on the label shall be supplemented by oral or written information as required by WAC 246-869-220.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-210, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-210, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.246. WSR 85-06-010 (Order 193), § 360-16-255, filed 2/22/85. Statutory Authority: RCW 18.64.005. WSR 84-22-027 (Order 191), § 360-16-255, filed 11/1/84.]

246-869-220
Patient counseling required.

The purpose of this counseling requirement is to educate the public in the use of drugs and devices dispensed upon a prescription.

(1) The pharmacist shall directly counsel the patient or patient's agent on the use of drugs or devices.

(2) For prescriptions delivered outside of the pharmacy, the pharmacist shall offer in writing, to provide direct counseling and information about the drug, including information on how to contact the pharmacist.

(3) For each patient, the pharmacist shall determine the amount of counseling that is reasonable and necessary under the circumstance to promote safe and effective administration of the medication and to facilitate an appropriate therapeutic outcome for that patient from the prescription.

(4) This rule applies to all prescriptions except where a medication is to be administered by a licensed health professional authorized to administer medications.

[Statutory Authority: RCW 18.64.005(7). WSR 01-04-055, § 246-869-220, filed 2/5/01, effective 3/8/01. Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-869-220, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-220, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-04-016 (Order 223), § 360-16-265, filed 1/23/89.]

246-869-230
Child-resistant containers.

(1) All legend drugs shall be dispensed in a child-resistant container as required by federal law or regulation, including C.F.R. Part 1700 of Title 16, unless:

(a) Authorization is received from the prescriber to dispense in a container that is not child-resistant.

(b) Authorization is obtained from the patient or a representative of the patient to dispense in a container that is not child-resistant.

(2) Authorization from the patient to the pharmacist to use a regular container (nonchild-resistant) shall be verified in one of the following ways:

(a) The patient or his agent may sign a statement on the back of the prescription requesting a container that is not child-resistant.

(b) The patient or his agent may sign a statement on a patient medication record requesting containers that are not child-resistant.

(c) The patient or his agent may sign a statement on any other permanent record requesting containers that are not child-resistant.

(3) No pharmacist or pharmacy employee may designate himself or herself as the patient's agent.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-230, filed 8/30/91, effective 9/30/91; Order 126, § 360-16-270, filed 5/21/75.]

246-869-235
Prescription drug repackaging—Definitions.

(1) "Unit-dose" means the ordered amount of a drug in an individually sealed package and in a dosage form ready for administration to a particular person by the prescribed route at the prescribed time.

(2) "Unit-of-use" means a sufficient quantity of a drug for one normal course of therapy.

(3) "Lot number," "control number" means any distinctive combination of letters, numbers, or symbols, or any combination of them, from which a complete history of the manufacturer, processing, packing, holding, and distribution of a batch or lot of drug product or other material can be determined.

(4) "Med-pack" means any package prepared under the immediate supervision of a pharmacist for a specific patient comprising a series of containers and containing one or more prescribed solid oral dosage forms including multifill blister packs.

[Statutory Authority: RCW 18.64.005. WSR 93-01-051 (Order 320B), § 246-869-235, filed 12/10/92, effective 1/10/93.]

246-869-250
Closing a pharmacy.

(1) Whenever a pharmacy ceases to operate, the owner shall notify the pharmacy board of the pharmacy's closing not later than fifteen days prior to the anticipated date of closing. This notice shall be submitted in writing and shall contain all of the following information:

(a) The date the pharmacy will close;

(b) The names and addresses of the persons who shall have custody of the prescription files, the bulk compounding records, the repackaging records, and the controlled substances inventory records of the pharmacy to be closed;

(c) The names and addresses of any persons who will acquire any of the legend drugs from the pharmacy to be closed, if known at the time the notification is filed.

(2) Not later than 15 days after the pharmacy has closed, the owner shall submit to the pharmacy board the following documents:

(a) The license of the pharmacy that closed; and

(b) A written statement containing the following information;

(i) Confirmation that all legend drugs have been transferred to an authorized person (or persons) or destroyed. If the legend drugs were transferred, the names and addresses of the person(s) to whom they were transferred;

(ii) If controlled substances were transferred, a list of the names and addresses to whom the substances were transferred, the substances transferred, the amount of each substance transferred, and the date on which the transfer took place;

(iii) Confirmation that the drug enforcement administration (DEA) registration and all unused DEA 222 forms (order forms) were returned to the DEA;

(iv) Confirmation that all pharmacy labels and blank prescriptions which were in the possession of the pharmacy were destroyed;

(v) Confirmation that all signs and symbols indicating the presence of the pharmacy have been removed.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-869-250, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.41.240. WSR 83-10-013 (Order 174), § 360-16-300, filed 4/26/83.]

246-869-255
Customized patient medication packages.

The board approves the use of med-pack containers in the dispensing of prescription drugs within the same pharmacy, provided that:

(1) The pharmacy must maintain custody of the original prescription container at the pharmacy;

(2) No more than a thirty-one day supply of drugs is packaged;

(3) The signature of the patient or the patient's agent is obtained for dispensing in a nonchild resistant container;

(4) The container's label bear the following information:

(a) Pharmacy name and address;

(b) Patient's name;

(c) Drug name, strength, quantity;

(d) Directions;

(e) Serial prescription numbers; date

(f) Prescriber's name, and pharmacist's initials.

[Statutory Authority: RCW 18.64.005. WSR 93-01-051 (Order 320B), § 246-869-255, filed 12/10/92, effective 1/10/93.]

Chapter 246-870 WAC

Last Update: 5/25/11

ELECTRONIC TRANSMISSION OF PRESCRIPTION INFORMATION

WAC Sections

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246-870-060	What are the board requirements for electronic prescription transmission systems?
246-870-070	What are the board requirements for pharmacies using electronic prescription transmission systems?
246-870-080	Can prescription records be stored electronically?
246-870-090	Can electronic mail systems be used to transmit patient information?

246-870-010
Purpose.

The purpose of this chapter is to ensure compliance with the law on electronic transfer of prescription information and to provide guidance on how compliance can be achieved.
[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-010, filed 12/1/03, effective 1/1/04.]

246-870-020
What definitions do I need to know to understand these rules?

(1) "Electronic transmission of prescription information" means the communication from an authorized prescriber to a pharmacy or from one pharmacy to another pharmacy, by computer, by the transmission of an exact visual image of a prescription by facsimile, or by other electronic means other than electronic voice communication, of original prescription information or prescription refill information for a legend drug or controlled substance consistent with state and federal law.

(2) "Confidential patient information" means information maintained in the patient's health care records or individually identifiable health care records. Confidential information must be maintained and protected from release in accordance with chapter 70.02 RCW and applicable federal law.

(3) "Digital signature" means an electronic identifier that provides for message integrity, nonrepudiation, user authentication, and encryption and is intended to have the force and effect of a manual signature.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a prescription and executed or adopted by an authorized person with the intent to sign the prescription.

(5) "Security" means a system to maintain the confidentiality and integrity of patient records including:

(a) Documented formal procedures for selecting and executing security measures;

(b) Physical safeguards to protect computer systems and other pertinent equipment from intrusion;

(c) Processes to protect, control and audit access to confidential patient information; and

(d) Processes to prevent unauthorized access to the data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or CD media.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-020, filed 12/1/03, effective 1/1/04.]

246-870-030
What is included in the electronic transmission and transfer of prescription information?

The electronic transfer of prescription information includes the communication of prescription information by computer, fax, or other electronic means. It includes the transfer of original and refill prescriptions and the transfer of prescription information from one pharmacy to another pharmacy.

Transmission of original prescriptions must include:

(1) Prescriber's name and the physical address of the prescriber;

(2) Prescriber's Drug Enforcement Administration Registration number where required for controlled substance prescriptions;

(3) Date of issuance;

(4) Patient's name and address;

(5) Drug name, dose, route, form, directions for use, quantity;

(6) Electronic, digital, or manual signature of the prescriber;

(7) Refills or renewals authorized, if any;

(8) A place to note allergies and a notation of purpose for the drug;

(9) Indication of preference for a generic equivalent drug substitution;

(10) Any other requirements consistent with laws and rules pertaining to prescription content and form, RCW 69.41.120 and 21 Code of Federal Regulations Part 1300; and

(11) Identification of the electronic system readily retrievable for board of pharmacy inspection.

Transfer of prescription information from pharmacy to pharmacy by facsimile, or verbally, must include:

(a) All elements of the original prescription;

(b) Date of transfer maintained in records at each site;

(c) Number of refills remaining and the date of last refill;

(d) State and federal required information for controlled substances;

(e) No further refills may be issued by the transferring pharmacy unless the pharmacies use a common electronic data base for prescription filling which provides an audit trail to document each refill and limits refills to the number authorized.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-030, filed 12/1/03, effective 1/1/04.]

246-870-040
Can all prescriptions be transmitted electronically?

Chapter 246-870 WAC

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ELECTRONIC TRANSMISSION OF PRESCRIPTION INFORMATION

Consistent with state and federal laws and rules over-the-counter, legend drug and controlled substance prescriptions may be transmitted electronically.

Federal and state law do not allow the electronic transfer of Schedule II prescriptions except exact visual images as described in WAC 246-870-050(3). The pertinent requirements for Schedule II prescriptions are found in RCW 69.50.308 and 21 C.F.R. Part 1306.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-040, filed 12/1/03, effective 1/1/04.]

246-870-050

What are the requirements for fax machines?

Prescription orders may be transmitted to pharmacists directly from the prescriber using facsimile transmission devices subject to the following requirements:

(1) The order contains the date, time, and telephone number and location of the transmitting device.

(2) Prescriptions for Schedule III, IV, and V drugs may be transmitted at any time.

(3) Prescriptions for Schedule II drugs may be transmitted only under the following conditions:

(a) The order is for an injectable Schedule II narcotic substance that is to be compounded by the pharmacist for patient use; or

(b) The prescription is written for patients in a long-term care facility or a hospice program as defined in RCW 69.50.308;

(c) The prescription must be signed by the prescriber;

(d) In a nonemergent situation, an order for Schedule II controlled substances may be prepared for delivery to a patient pursuant to a facsimile transmission but may not be dispensed to the patient except upon presentation of a written order;

(e) In an emergent situation, an order for Schedule II controlled substances may be dispensed to the patient upon the oral prescription of a prescriber subject to the requirements of RCW 69.50.308(c). The pharmacy has seven days to obtain a written prescription that covers an emergency Schedule II oral prescription;

(f) To a hospital as defined in WAC 246-873-010 for a patient admitted to or being discharged from the hospital.

(4) The transmitted order shall be filed in the same manner as any other prescription. However, the pharmacist is responsible for assuring that the quality of the order is sufficient to be legible for at least two years pursuant to the records retention requirements of WAC 246-869-100.

(5) Refill authorizations for prescriptions may be electronically transmitted.

(6) The pharmacist is responsible for assuring that each electronically transmitted prescription is valid and shall verify authenticity with the prescriber whenever there is a question.

(7) No agreement between a prescriber and a pharmacist or pharmacy shall require that prescription orders be electronically transmitted from the prescriber to only that pharmacy.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-050, filed 12/1/03, effective 1/1/04.]

246-870-060

What are the board requirements for electronic prescription transmission systems?

(1) Systems for the electronic transmission of prescription information must be approved by the board. Board approval of systems will be for a period of three years. The board will maintain a list of approved systems.

(2) Systems in which prescriptions are transmitted from the prescriber's facsimile machine to the pharmacy facsimile machine do not require board approval.

(3) Each system shall have policies and procedures on the electronic transmission of prescription information available that address the following:

(a) Patient access. The system may not restrict the patient's access to the pharmacy of their choice.

(b) Security. The system shall have security and system safeguard designed to prevent and detect unauthorized access, modification, or manipulation of prescription information. Accordingly, the system should include:

(i) Documented formal procedures for selecting and executing security measures;

(ii) Physical safeguards to protect computer systems and other pertinent equipment from intrusion;

(iii) Processes to protect, control and audit access to confidential patient information; and

(iv) Processes to prevent unauthorized access to the data when transmitted over communication networks or when data physically moves from one location to another using media such as magnetic tape, removable drives or CD media.

(c) Systems that utilize intermediaries in the electronic communication or processing of prescriptions such as third party payers shall be responsible to insure that their contracts with these intermediaries require security measures that are equal to or better than those provided by this rule and prohibit the modification of any prescription record after it has been transmitted by the practitioner to the pharmacist.

(d) Confidentiality of patient records. The system shall maintain the confidentiality of patient information in accordance with the requirements of chapters 18.64, 69.50, and 70.02 RCW Health Care Information Act and any applicable federal law.

(e) Authentication. To be valid prescriptions transmitted by an authorized prescriber from computer to fax machine or from computer to computer must use an electronic signature or digital signature.

(4) The system shall provide for the transmission and retention of the information by the sender and the receiver of the prescription as required in WAC 246-870-030.

(5) The system must authenticate the sender's authority and credentials to transmit a prescription.

(a) The system shall provide an audit trail of all prescriptions electronically transmitted that documents for retrieval all actions and persons who have acted on a prescription, including authorized delegation of transmission;

(b) The right of the Washington state board of pharmacy to access electronically submitted prescriptions for purposes of investigations in disciplinary proceedings.

(6) If a hard copy of an electronic prescription is given directly to the patient, the prescription must be printed on approved tamper-resistant paper and must be manually signed by the prescriber as required in RCW 18.64.500.

[Statutory Authority: RCW 18.64.500 and 18.64.005. WSR 11-12-036, § 246-870-060, filed 5/25/11, effective 6/25/11. Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-060, filed 12/1/03, effective 1/1/04.]

Chapter 246-870 WAC

Last Update: 5/25/11

ELECTRONIC TRANSMISSION OF PRESCRIPTION INFORMATION

246-870-070

What are the board requirements for pharmacies using electronic prescription transmission systems?

Each pharmacy must have policies and procedures that ensure the integrity and confidentiality of patient information transmitted electronically as required by chapter 70.02 RCW and applicable federal law. All pharmacy employees and agents of the pharmacy are required to read, sign and comply with the policy and procedures.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-070, filed 12/1/03, effective 1/1/04.]

246-870-080

Can prescription records be stored electronically?

Prescription records for legend drugs can be stored electronically if they are in compliance with chapter 246-875 WAC patient medication record systems and are readily retrievable by the board, or its agent for inspection. Controlled substance prescriptions must be maintained in accordance with state and federal regulations.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-080, filed 12/1/03, effective 1/1/04.]

246-870-090

Can electronic mail systems be used to transmit patient information?

Electronic mail systems can be used to transmit patient information concerning an original prescription or information concerning a prescription refill if all direct communications between a pharmacist and a practitioner are kept secure and confidential. The system used to communicate patient information shall meet the requirements for security and confidentiality in WAC 246-870-020.

[Statutory Authority: Chapters 69.41, 69.50 RCW, RCW 18.64.005. WSR 03-24-070, § 246-870-090, filed 12/1/03, effective 1/1/04.]

Chapter 246-871 WAC
PHARMACEUTICAL—PARENTERAL PRODUCTS FOR NONHOSPITALIZED PATIENTS

Last Update: 5/28/92

WAC Sections

246-871-001	Scope and purpose.
246-871-010	Definitions.
246-871-020	Policy and procedure manual.
246-871-030	Physical requirements.
246-871-040	Personnel.
246-871-050	Drug distribution and control.
246-871-060	Antineoplastic medications.
246-871-070	Clinical services.
246-871-080	Quality assurance.

246-871-001
Scope and purpose.

The purpose of this chapter is to provide standards for the preparation, labeling, and distribution of parenteral products by licensed pharmacies, pursuant to an order or prescription. These standards are intended to apply to all parenteral products not administered in a hospital.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-001, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-010, filed 1/17/90, effective 2/17/90.]

246-871-010
Definitions.

(1) Biological safety cabinet - A containment unit suitable for the preparation of low to moderate risk agents where there is a need for protection of the product, personnel, and environment according to National Sanitation Foundation (NSF) Standard 49.

(2) Class 100 environment - An atmospheric environment which contains less than 100 particles 0.5 microns in diameter per cubic foot of air, according to Federal Standard 209B.

(3) Antineoplastic - A pharmaceutical that has the capability of killing malignant cells.

(4) Parenteral - Sterile preparations of drugs for injection through one or more layers of skin.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-020, filed 1/17/90, effective 2/17/90.]

246-871-020
Policy and procedure manual.

(1) A policy and procedure manual as it relates to parenteral products shall be available for inspection at the pharmacy. The manual shall be reviewed and revised on an annual basis by the on-site pharmacist-in-charge.

(2) The manual shall include policies and procedures for:

(a) Clinical services;

(b) Parenteral product handling, preparation, dating, storage, and disposal;

(c) Major and minor spills of antineoplastic agents, if applicable;

(d) Disposal of unused supplies and medications;

(e) Drug destruction and returns;

(f) Drug dispensing;

(g) Drug labeling—relabeling;

(h) Duties and qualifications for professional and nonprofessional staff;

(i) Equipment;

(j) Handling of infectious waste pertaining to drug administration;

(k) Infusion devices and drug delivery systems;

(l) Dispensing of investigational medications;

(m) Training and orientation of professional and nonprofessional staff commensurate with the services provided;

(n) Quality assurance;

(o) Recall procedures;

(p) Infection control:

(i) Suspected contamination of parenteral products;

(ii) Orientation of employees to sterile technique;

(q) Sanitation;

(r) Security;

(s) Transportation; and

(t) Absence of a pharmacist.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-030, filed 1/17/90, effective 2/17/90.]

246-871-030
Physical requirements.

(1) Space. The pharmacy shall have a designated area with entry restricted to designated personnel for preparing compounded parenteral products. This area shall be designed to minimize traffic and airflow disturbances. It shall be used only for the preparation of these specialty products. It shall be of sufficient size to accommodate a laminar airflow hood and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation, and security.

(2) Equipment. The pharmacy preparing parenteral products shall have:

(a) Appropriate environmental control devices capable of maintaining at least a Class 100 environment condition in the workspace where critical objects are exposed and critical activities are performed;

furthermore, these devices are capable of maintaining Class 100 environment conditions during normal activity;

(b) Clean room and laminar flow hood certification shall be conducted annually by an independent contractor according to Federal Standard 209B or National Sanitation Foundation 49 for operational efficiency. These reports shall be maintained for at least two years;

(c) Prefilters. Prefilters for the clean air source shall be replaced on a regular basis and the replacement date documented;

(d) Sink with hot and cold running water which is convenient to the compounding area for the purpose of hand scrubs prior to compounding;

(e) Appropriate disposal containers for used needles, syringes, etc., and if applicable, antineoplastic agents;

(f) Refrigerator/freezer with thermometer;

(g) Temperature controlled delivery container, if appropriate;

(h) Infusion devices, if appropriate.

(3) Reference library. The pharmacy shall have current reference materials related to parenteral products. These reference materials will contain information on stability, incompatibilities, mixing guidelines, and the handling of antineoplastic products.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-040, filed 1/17/90, effective 2/17/90.]

246-871-040
Personnel.

(1) Pharmacist-in-charge. Each pharmacy shall be managed on site by a pharmacist who is licensed to practice pharmacy in this state and who has been trained in the specialized functions of preparing and dispensing compounded parenteral products, including the principles of aseptic technique and quality assurance. This training may be obtained through residency training programs, continuing education programs, or experience in an IV admixture facility. The pharmacist-in-charge shall be responsible for the purchasing, storage, compounding, repackaging, dispensing, and distribution of all parenteral products. He/she shall also be responsible for the development and continuing review of all policies and procedures, training manuals, and the quality assurance programs. The pharmacist-in-charge may be assisted by additional pharmacists trained in this area of practice.

(2) Supportive personnel. The pharmacist-in-charge may be assisted by a level A pharmacy assistant. The level A pharmacy assistant shall have specialized training in this field and shall work under the immediate supervision of a pharmacist. The training provided to these personnel shall be described in writing in a training manual pursuant to chapter 246-901 WAC and chapter 18.64A RCW. The duties and responsibilities of the level A pharmacy assistant must be consistent with his/her training and experience.

(3) Staffing. A pharmacist shall be accessible twenty-four hours per day for each pharmacy to respond to patient's and other health professionals' questions and needs.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-871-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-060, filed 1/17/90, effective 2/17/90.]

246-871-050
Drug distribution and control.

(1) Prescription. The pharmacist, or pharmacy intern acting under the immediate supervision of a pharmacist, must receive a written or verbal prescription from an authorized prescriber before dispensing any parenteral product. Prescriptions may be filed within the pharmacy by patient-assigned consecutive numbers. A new prescription is required every twelve months or upon any prescription change. These prescriptions shall, at a minimum, contain the following:

(a) Patient name;

(b) Patient address;

(c) Drug name, strength, and dispensing quantity;

(d) Patient directions for use;

(e) Date written;

(f) Authorizing prescriber's name;

(g) Physician's address and Drug Enforcement Administration identification code, if applicable;

(h) Refill instructions, if applicable; and

(i) Provision for generic substitution.

(2) Profile or medication record system. A pharmacy-generated profile or medication record system must be separated from the oral prescription file. The patient profile or medication record system shall be maintained under the control of the pharmacist-in-charge for a period of two years after the last dispensing activity. The patient profile or medication record system shall contain, at a minimum:

(a) Patient's full name;

(b) Date of birth or age;

(c) Weight, if applicable;

(d) Sex, if applicable;

(e) Parenteral products dispensed;

(f) Date dispensed;

(g) Drug content and quantity;

(h) Patient directions;

(i) Prescription identifying number;

(j) Identification of dispensing pharmacist and preparing level A pharmacy assistant, if applicable;

(k) Other drugs patient is receiving;

(l) Known drug sensitivities and allergies to drugs and foods;

(m) Primary diagnosis, chronic conditions; and

(n) Name of manufacturer and lot numbers of components or a policy for return of recalled product if lot numbers are not recorded.

(3) Labeling. Parenteral products dispensed to patients shall be labeled with the following information with a permanent label:

(a) Name, address, and telephone number of the pharmacy;

(b) Date and prescription identifying number;
(c) Patient's full name;
(d) Name of each component, strength, and amount;
(e) Directions for use including infusion rate;
(f) Prescriber's name;
(g) Required transfer warnings;
(h) Date of compounding;
(i) Expiration date and expiration time, if applicable;
(j) Identity of pharmacist compounding and dispensing or other authorized individual;
(k) Storage requirements;
(l) Auxiliary labels, where applicable;
(m) Antineoplastic drug auxiliary labels, where applicable; and
(n) On all parenteral products, a twenty-four hour phone number where a pharmacist can be contacted.

(4) Records and reports. The pharmacist-in-charge shall maintain access to and submit, as appropriate, such records and reports as are required to ensure patient's health, safety, and welfare. Such records shall be readily available, maintained for two years, and subject to inspections by the board of pharmacy. These shall include, as a minimum, the following:
(a) Patient profile/medication record system;
(b) Policy and procedure manual;
(c) Training manuals; and
(d) Such other records and reports as may be required by law and rules of the board of pharmacy.

Information regarding individual patients shall be maintained in a manner to assure confidentiality of the patient's record. Release of this information shall be in accordance with federal and/or state laws or rules.

(5) Delivery service. There will be a provision for the timely delivery of parenteral products from a pharmacy so a practitioner's order for drug therapy can be implemented without undue delay. The pharmacist-in-charge shall assure the environmental control of all parenteral products shipped. Therefore, any parenteral products must be shipped or delivered to a patient in appropriate temperature controlled delivery containers (as defined by USP Standards) and stored appropriately in the patient's home. Chain of possession for the delivery of controlled substances via contracted courier must be documented, and a receipt required. The pharmacy, on request, will provide instruction for the destruction of unused parenteral products and supplies in the event a parenteral product is being discontinued or a patient dies.

(6) Disposal of infectious wastes. The pharmacist-in-charge is responsible for assuring that there is a system for the disposal of infectious waste pertaining to drug administration in a manner so as not to endanger the public health.

(7) Emergency kit. When parenteral products are provided to home care patients, the dispensing pharmacy may supply the registered nurse with emergency drugs if the physician has authorized the use of these drugs by a protocol for use in an emergency situation, e.g., anaphylactic shock. A protocol for the emergency kit must be submitted to and approved by the board of pharmacy.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-070, filed 1/17/90, effective 2/17/90.]

246-871-060
Antineoplastic medications.

The following additional requirements are necessary for those pharmacies that prepare antineoplatic medications to assure the protection of the personnel involved.

(1) All antineoplastic medications shall be compounded within a certified Class II type A or Class II type B vertical laminar airflow hood.

Policy and procedures shall be developed for the cleaning of the laminar airflow hood between compounding antineoplastic medications and other parenteral products, if applicable.

(2) Protective apparel shall be worn by personnel compounding antineoplastic medications. This shall include disposable gloves, gowns with tight cuffs, masks, and protective eye shields if the safety cabinet is not equipped with splash guards.

(3) Appropriate safety containment techniques for compounding antineoplastic medications shall be used in conjunction with the aseptic techniques required for preparing parenteral products.

(4) Disposal of antineoplastic waste shall comply with all applicable local, state, and federal requirements, i.e., Occupational Safety and Health Administration (OSHA) and Washington Industrial Safety and Health Administration (WISHA).

(5) Written procedures for handling both major and minor spills of antineoplastic medications must be developed and must be included in the policy and procedure manual. These procedures will include providing spill kits along with directions for use to those persons receiving therapy.

(6) Prepared doses of antineoplastic medications must be dispensed and shipped in a manner to minimize the risk of accidental rupture of the primary container.

(7) Documentation that personnel have been trained in compounding, handling, and destruction of antineoplastic medications.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-080, filed 1/17/90, effective 2/17/90.]

246-871-070
Clinical services.

(1) Primary provider. There shall be an authorizing practitioner primarily responsible for the patient's medical care. There shall be a clear understanding between the authorizing practitioner, the patient, the home health care agency, and the pharmacy of the responsibilities of each in the areas of the delivery of care and the monitoring of the patient. This shall be documented in the patient's medication record system.

(2) A systematic process of medication use review must be designed, followed, and documented on an ongoing basis.

(3) Pharmacist-patient relationship. The pharmacist is responsible for seeing that the patient's compliance and adherence to a medication regimen is followed.

(4) Patient monitoring. The pharmacist will have access to clinical and laboratory data concerning each patient. Any abnormal values will be reported to the authorizing practitioner in a timely manner.

(5) Documentation. There must be documentation of ongoing drug therapy monitoring and assessment shall include but not be limited to:

(a) Therapeutic duplication in the patient's drug regimen;

(b) The appropriateness of the dose, frequency, and route of administration;

(c) Clinical laboratory or clinical monitoring methods to detect side effects, toxicity, or adverse effects and whether the findings have been reported to the authorizing practitioner.

(6) Patient training. The patient, the patient's agent, the authorizing practitioner, the home health care agency, or the pharmacy must demonstrate or document the patient's training and competency in managing this type of therapy in the home environment. A pharmacist is responsible for the patient training process in any area that relates to medication compounding, labeling, storage, stability, or incompatibility. The pharmacist must be responsible for seeing that the patient's competency in the above areas is reassessed on an ongoing basis.

(7) A pharmacist will verify that any parenteral product a patient has not received before will be administered under the supervision of a person authorized to manage anaphylaxis.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-090, filed 1/17/90, effective 2/17/90.]

246-871-080
Quality assurance.

There shall be a documented, ongoing quality assurance program that is reviewed at least annually.

(1) The quality assurance program shall include but not be limited to methods to document:

(a) Medication errors;

(b) Adverse drug reactions;

(c) Patient satisfaction;

(d) Product sterility.

There shall be written documentation that the end product has been tested on a sampling basis for microbial contamination by the employee responsible for compounding parenteral products. Documentation shall be on a quarterly basis at a minimum.

(2) Nonsterile compounding. If bulk compounding of parenteral solutions is performed utilizing nonsterile chemicals, extensive end product testing, as referenced in *Remington*, must be documented prior to the release of the product from quarantine. This process must include appropriate testing for particulate matter and testing for pyrogens.

(3) Expiration dates. There shall be written justification of the chosen expiration dates for compounded parenteral products.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-871-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 90-03-055 (Order 026), § 360-16A-100, filed 1/17/90, effective 2/17/90.]

Chapter 246-872 WAC

Last Update: 11/13/06

AUTOMATED DRUG DISTRIBUTION DEVICES

WAC Sections

246-872-010	Purpose.
246-872-020	What definitions do I need to know to understand these rules?
246-872-030	What are the pharmacy's responsibilities?
246-872-040	What are the responsibilities of the facility in the use of automated drug distribution devices?
246-872-050	What are quality assurance and performance improvement requirements for the use of automated drug distribution devices?

246-872-010
Purpose.

The purpose of this chapter is to define the requirements for automated drug distribution devices in licensed pharmacies and health care facilities as defined in RCW 70.38.025(6) and medical facilities as defined in RCW 70.40.020(7) that choose to use them. The requirements for automated drug distribution devices provide drug security to protect public health and safety and provides access to medications for quality care. The chapter defines appropriate medication security, accountability, device performance, and patient confidentiality. Facilities with automated drug distribution devices must obtain board of pharmacy approval for the use of the devices.

[Statutory Authority: RCW 18.64.005. WSR 06-23-078, § 246-872-010, filed 11/13/06, effective 12/14/06.]

246-872-020
What definitions do I need to know to understand these rules?

(1) "Automated drug distribution devices" means automated equipment used for remote storage and distribution of medication for use in patient care. The system is supported by an electronic data base.

(2) "Information access" means entry into a recordkeeping component of the automated drug distribution device, by electronic or other means, to add, update, or retrieve any patient record, medication record, or other data.

(3) "Medication access" means the physical entry into any component of the automated drug distribution devices to stock, inventory, remove medications, or repair the device.

[Statutory Authority: RCW 18.64.005. WSR 06-23-078, § 246-872-020, filed 11/13/06, effective 12/14/06.]

246-872-030
What are the pharmacy's responsibilities?

Each facility using drug distribution devices must designate a registered pharmacist responsible for the oversight of the use of these devices. The responsibilities of this pharmacist are to ensure:

(1) Policies and procedures are in place for the safe use of patient medications that are removed from the devices, prior to pharmacist review of the prescriber's order.

(2) Conduct of quarterly audits of compliance with policies and procedures.

(3) Approval of the medication inventory to be stocked in the automated drug distribution devices.

(4) The checking and stocking of medications in the automated drug distribution devices is reserved to a pharmacist, pharmacy intern, or a pharmacy technician.

(a) A pharmacy technician checking the accuracy of medications to be refilled into automated drug distribution devices must have met the criteria for specialized functions in WAC 246-901-035 and have documentation of the training on file in the pharmacy.

(b) The board may approve electronic bar code checking, or other approved technology, in place of manual double-checking of the medications stocked in the automated drug distribution devices.

(5) Ensure the security of medications in automated drug distribution devices by:

(a) Limiting access to licensed health personnel consistent with the patient care services identified within their scope of practice;

(b) Using safeguards to prevent unauthorized access to the devices, including termination of access at the end of employment;

(c) Monitoring controlled substance usage and taking appropriate action as warranted; and

(d) Working in cooperation with nursing administration to maintain an ongoing medication discrepancy resolution and monitoring process.

(6) A process is in place for all staff using the automated drug distribution devices to receive adequate training.

(7) Pharmacist participation in the facility automated drug distribution devices system quality assurance and performance improvement program.

[Statutory Authority: RCW 18.64.005. WSR 06-23-078, § 246-872-030, filed 11/13/06, effective 12/14/06.]

246-872-040

What are the responsibilities of the facility in the use of automated drug distribution devices?

The licensed health care facility must maintain readily available policies and procedures for the use of automated drug distribution devices that address:

(1) Type of equipment, components, and locations.

(2) Medication and information access.

(a) The automated drug distribution devices must have a system in place to record all medication removal, waste, and returns including date and time, identity of user, patient name, complete description of medication, quantity, and witness signature or verification, if required;

(b) The record of medications filled, inventoried, or stocked including identification of the person accessing the automated drug distribution devices shall be readily retrievable and maintained by authorized personnel;

(c) Verification that a patient's information in the automated drug distribution device matches the information in facility records; and

(d) The records for patients discharged from the facility must be removed from the automated drug distribution devices data base within twelve hours.

(3) Medication management.

(a) All medications in the automated drug distribution devices must be packaged and labeled in compliance with state and federal laws;

(b) All controlled substances activities must comply with requirements of state and federal laws. The responsible pharmacist must have a system in place to verify the accuracy of controlled substance counts. Once in place, the counting system no longer requires compliance with WAC 246-873-080 (7)(h). The process for securing and accounting for returned or wasted medication is defined.

[Statutory Authority: RCW 18.64.005. WSR 06-23-078, § 246-872-040, filed 11/13/06, effective 12/14/06.]

246-872-050
What are quality assurance and performance improvement requirements for the use of automated drug distribution devices?

Each facility shall establish and maintain a quality assurance and performance program that includes but is not limited to:

(1) Accuracy of medication filling and removal;

(2) Regular review of controlled substances discrepancies;

(3) Use of the data collected to take action to insure quality of care and make improvements to the automated drug distribution device system;

(4) Documentation of the outcomes of the quality assurance activities.

[Statutory Authority: RCW 18.64.005. WSR 06-23-078, § 246-872-050, filed 11/13/06, effective 12/14/06.]

Chapter 246-873 WAC

Last Update: 5/28/92

PHARMACY—HOSPITAL STANDARDS

WAC Sections

246-873-010	Definitions.
246-873-020	Applicability.
246-873-030	Licensure.
246-873-040	Personnel.
246-873-050	Absence of a pharmacist.
246-873-060	Emergency outpatient medications.
246-873-070	Physical requirements.
246-873-080	Drug procurement, distribution and control.
246-873-090	Administration of drugs.
246-873-100	Investigational drugs.
246-873-110	Additional responsibilities of pharmacy service.

246-873-010
Definitions.

For the purpose of these rules and regulations, the following definitions apply:

(1) "Authenticated" or "authentication" means authorization of a written entry in a record by means of a signature which shall include, minimally, first initial, last name, and title.

(2) "Controlled substance" means those drugs, substances or immediate precursors listed in Schedule I through V, chapter 69.50 RCW, State Uniform Controlled Substance Act, as now or hereafter amended.

(3) "Drug" means any product referenced in RCW 18.64.011(3) as now or hereafter amended.

(4) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given to a patient by an authorized person in accordance with all laws and regulations governing such acts. The complete act of administration entails removing an individual dose from a previously dispensed, properly labeled container (including a unit dose container) reviewing it with a verified transcription, a direct copy, or the original medical practitioner's orders, giving the individual dose to the proper patient, and properly recording the time and dose given.

(5) "Drug dispensing" means an act entailing the interpretation of an order for a drug or biological and, pursuant to that order, proper selection, measuring, labeling, packaging, and issuance of the drug for a patient or for a service unit of the facility.

(6) "Hospital" means any institution licensed pursuant to chapters 70.41 or 71.12 RCW or designated pursuant to RCW 72.23.020.

(7) "Hospital pharmacy" means that portion of a hospital which is engaged in the manufacture, production, preparation, dispensing, sale, and/or distribution of drugs, components, biologicals, chemicals, devices and other materials used in the diagnosis and treatment of injury, illness and diseases; and which is licensed by the state board of pharmacy pursuant to the Washington State Pharmacy Practice Act, chapter 18.64 RCW.

(8) "Immediate supervision" means visual and/or physical proximity that insure adequate safety and controls.

(9) "Investigational drug" means any article which has not been approved for use in the United States, but for which an investigational drug application (IND) has been approved by the FDA.

(10) "Nurse" means a registered nurse or a licensed practical nurse licensed pursuant to chapters 18.88 or 18.78 RCW.

(11) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs in RCW 18.64.011(9).

(12) "Pharmacist" means a person duly licensed by the state board of pharmacy to engage in the practice of pharmacy.

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

(14) "Pharmacy Assistant Level A and Level B" means persons certified under chapter 18.64A RCW.

(15) "Physician" means a doctor of medicine or a doctor of osteopathy licensed to practice in the state of Washington.

(16) "Practice of pharmacy" means the definition given in RCW 18.64.011(11) now or hereafter amended.

(17) "Protocol" means a written set of guidelines.

(18) "Registered nurse" means an individual licensed under the provisions of chapter 18.88 RCW, regulating the practice of registered nursing in the state of Washington.

(19) "Self-administration of drugs" means that a patient administers or takes his/her own drugs from properly labeled containers: Provided, That the facility maintains the responsibility for seeing that the drugs are used correctly and that the patient is responding appropriately.

(20) "Shall" means that compliance with regulation is mandatory.

(21) "Should" means that compliance with a regulation or standard is recommended.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 82-12-041 (Order 168), § 360-17-010, filed 5/28/82. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-010, filed 7/29/81.]

246-873-020
Applicability.

The following rules and regulations are applicable to all facilities licensed pursuant to chapters 70.41 and 71.12 RCW or designated pursuant to RCW 72.23.020.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(12). WSR 82-12-041 (Order 168), § 360-17-020, filed 5/28/82. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-020, filed 7/29/81.]

246-873-030
Licensure.

Hospital pharmacists shall be licensed by the board of pharmacy in accordance with chapter 18.64 RCW.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-030, filed 7/29/81.]

Chapter 246-873 WAC

Last Update: 5/28/92

PHARMACY—HOSPITAL STANDARDS

246-873-040
Personnel.

(1) Director of pharmacy. The pharmacy, organized as a separate department or service, shall be directed by a licensed pharmacist appropriately qualified by education, training, and experience to manage a hospital pharmacy. The patient care and management responsibilities of the director of pharmacy shall be clearly delineated in writing and shall be in accordance with currently accepted principles of management, safety, adequate patient care and treatment. The responsibilities shall include the establishment and maintenance of policies and procedures, ongoing monitoring and evaluation of pharmaceutical service, use and control of drugs, and participation in relevant planning, policy and decision-making activities. Hospitals which do not require, or are unable to obtain the services of a fulltime director shall be held responsible for the principles contained herein and shall establish an ongoing arrangement in writing with an appropriately qualified pharmacist to provide the services. Where the director of pharmacy is not employed fulltime, then the hospital shall establish an ongoing arrangement in writing with an appropriately qualified pharmacist to provide the services described herein. The director of pharmacy shall be responsible to the chief executive officer of the hospital or his/her designee.

(2) Supportive personnel. The director of pharmacy shall be assisted by sufficient numbers of additional pharmacists and/or pharmacy assistants and clerical personnel required to operate safely and efficiently to meet the needs of the patients.

(3) Supervision. All of the activities and operations of each hospital pharmacy shall be professionally managed by the director or a pharmacist designee. Functions and activities shall be under the immediate supervision of a pharmacist and shall be performed according to written policies and procedures. When the hospital pharmacy is decentralized, each decentralized section(s) or separate organizational element(s) shall be under the immediate supervision of a pharmacist responsible to the director.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-040, filed 7/29/81.]

246-873-050
Absence of a pharmacist.

(1) General. Pharmaceutical services shall be available on a 24-hour basis. If round-the-clock services of a pharmacist are not feasible, arrangements shall be made in advance by the director of pharmacy to provide reasonable assurance of pharmaceutical services.

(2) Access to the pharmacy. Whenever a drug is required to treat an immediate need and not available from floor stock when the pharmacy is closed, the drug may be obtained from the pharmacy by a designated registered nurse, who shall be accountable for his/her actions. One registered nurse shall be designated in each hospital shift for removing drugs from the pharmacy.

(a) The director of pharmacy shall establish written policy and recording procedures to assist the registered nurse who may be designated to remove drugs from the pharmacy, when a pharmacist is not present, in accordance with Washington State Pharmacy Practice Act, RCW 18.64.255(2), which states that the director of pharmacy and the hospital be involved in designating the nurse.

(b) The stock container of the drug or similar unit dose package of the drug removed shall be left with a copy of the order of the authorized practitioner to be checked by a pharmacist, when the pharmacy reopens, or as soon as is practicable.

(c) Only a sufficient quantity of drugs shall be removed in order to sustain the patient until the pharmacy opens.

(d) All drugs removed shall be completely labeled in accordance with written policy and procedures, taking into account state and federal rules and regulations and current standards.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-050, filed 7/29/81.]

246-873-060
Emergency outpatient medications.

The director of pharmacy of a hospital shall, in concert with the appropriate committee of the hospital medical staff, develop policies and procedures, which shall be implemented, to provide emergency pharmaceuticals to outpatients during hours when normal community or hospital pharmacy services are not available. The delivery of a single dose for immediate administration to the patient shall not be subject to this regulation. Such policies shall allow the designated registered nurse(s) to deliver medications other than controlled substances, pursuant to the policies and procedures which shall require that:

(1) An order of a practitioner authorized to prescribe a drug is presented. Oral or electronically transmitted orders must be verified by the prescriber in writing within 72 hours.

(2) The medication is prepackaged by a pharmacist and has a label that contains:

(a) Name, address, and telephone number of the hospital.

(b) The name of the drug (as required by chapter 246-899 WAC), strength and number of units.

(c) Cautionary information as required for patient safety and information.

(d) An expiration date after which the patient should not use the medication.

(3) No more than a 24-hour supply is provided to the patient except when the pharmacist has informed appropriate hospital personnel that normal services will not be available within 24 hours.

(4) The container is labeled by the designated registered nurse(s) before presenting to the patient and shows the following:

(a) Name of patient;

(b) Directions for use by the patient;

(c) Date;

(d) Identifying number;

(e) Name of prescribing practitioner;

(f) Initials of the registered nurse;

(5) The original or a direct copy of the order by the prescriber is retained for verification by the pharmacist after completion by the designated registered nurse(s) and shall bear:

(a) Name and address of patient;

(b) Date of issuance;
(c) Units issued;
(d) Initials of designated registered nurse.

(6) The medications to be delivered as emergency pharmaceuticals shall be kept in a secure place in or near the emergency room in such a manner as to preclude the necessity for entry into the pharmacy.

(7) The procedures outlined in this rule may not be used for controlled substances except at the following rural hospitals which met all three of the rural access project criteria on May 17, 1989:

	Hospital	City
1.	Lake Chelan Community Hospital	Chelan
2.	St. Joseph's Hospital	Chewelah
3.	Whitman Community Hospital	Colfax
4.	Lincoln Hospital	Davenport
5.	Dayton General Hospital	Dayton
6.	Ocean Beach Hospital	Ilwaco
7.	Newport Community Hospital	Newport
8.	Jefferson General Hospital	Port Townsend
9.	Ritzville Memorial Hospital	Ritzville
10.	Willapa Harbor Hospital	South Bend

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-873-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-12-011 (Order 225), § 360-17-055, filed 5/26/89; WSR 83-23-109 (Order 179), § 360-17-055, filed 11/23/83.]

246-873-070
Physical requirements.

(1) Area. The pharmacy facilities shall include:

(a) Appropriate transportation and communications systems for the distribution and control of drugs within the hospital.

(b) Sufficient space and equipment for secure, environmentally controlled storage of drugs and other pharmaceutical supplies.

(2) In order to meet the medical services' need for drugs throughout the hospital, the pharmacy facilities should include:

(a) Space for the management and clinical functions of the pharmaceutical service.

(b) Space and equipment for the preparation of parenteral admixtures, radiopharmaceuticals, and other sterile compounding and packaging.

(c) Other equipment necessary.

(3) Access to unattended areas. All areas occupied by the hospital pharmacy shall be locked by key or combination in order to prevent access by unauthorized personnel. The director of pharmacy shall designate in writing, by title and/or position those individuals who shall be authorized access to particular areas within the pharmacy, including authorization of access to keys and/or combinations.

(4) Drug storage areas. Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security.

(a) It is the joint responsibility of the director of pharmacy and the director of nursing to ensure that drug handling, storage, and preparation are carried out in conformance with established policies, procedures, and accepted standards.

(b) Locked storage or locked medication carts shall be provided for use on each nursing service area or unit.

(5) Flammable storage. All flammable material shall be stored and handled in accordance with applicable local and state fire regulations, and there shall be written policy and procedures for the destruction of these flammable materials.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 85-11-066 (Order 194), § 360-17-060, filed 5/21/85. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-060, filed 7/29/81.]

246-873-080
Drug procurement, distribution and control.

(1) General. Pharmaceutical service shall include:

(a) Procurement, preparation, storage, distribution and control of all drugs throughout the hospital.

(b) A monthly inspection of all nursing care units or other areas of the hospital where medications are dispensed, administered or stored. Inspection reports shall be maintained for one year.

(c) Monitoring the drug therapy.

(d) Provisions for drug information to patients, physicians and others.

(e) Surveillance and reporting of adverse drug reactions and drug product defect(s).

(2) Additional pharmaceutical services should include:

(a) Obtaining and recording comprehensive drug histories and participation in discharge planning in order to affect appropriate drug use.

(b) Preparation of all sterile products (e.g., IV admixtures, piggybacks, irrigation solutions), except in emergencies.

(c) Distribution and control of all radiopharmaceuticals.

(d) Administration of drugs.

(e) Prescribing.

(3) The director shall be responsible for establishing specifications for procurement, distribution and the maintenance of a system of accountability for drugs, IV solutions, chemicals, and biologicals related to the practice of pharmacy.

(4) The director shall establish, annually review and update when necessary comprehensive written policies and procedures governing the responsibilities and functions of the pharmaceutical service. Policies affecting patient care and treatment involving drug use shall be established by the director of pharmacy with the cooperation and input of the medical staff, nursing service and the administration.

(5) Labeling:

(a) Inpatient. All drug containers in the hospital shall be labeled clearly, legibly and adequately to show the drug's name (generic and/or trade) and strength when applicable. Accessory or cautionary statements and the expiration date shall be applied to containers as appropriate.

(b) Outpatients. Labels on medications used for outpatients, emergency room, and discharge drug orders shall meet the requirements of RCW 18.64.246.

(c) Parenteral and irrigation solutions. When drugs are added to intravenous solutions, a suitable label shall be affixed to the container. As a minimum the label shall indicate name and location of the patient, name and amount of drug(s) added, appropriate dating, initials of the personnel who prepared and checked the solution.

(6) Medication orders. Drugs are to be dispensed and administered only upon orders of authorized practitioners. A pharmacist shall review the original order or direct copy thereof, prior to dispensing any drug, except for emergency use or as authorized in WAC 246-873-050.

(7) Controlled substance accountability. The director of pharmacy shall establish effective procedures and maintain adequate records regarding use and accountability of controlled substances, and such other drugs as appropriate, in compliance with state and federal laws and regulations.

(a) Complete, accurate, and current records shall be kept of receipt of all controlled substances and in addition, a Schedule II perpetual inventory shall be maintained.

(b) The pharmacy shall maintain records of Schedule II drugs issued from the pharmacy to other hospital units which include:

(i) Date

(ii) Name of the drug

(iii) Amount of drug issued

(iv) Name and/or initials of the pharmacist who issued the drug

(v) Name of the patient and/or unit to which the drug was issued.

(c) Records shall be maintained by any unit of the hospital which utilizes Schedule II drugs indicating:

(i) Date

(ii) Time of administration

(iii) Name of the drug (if not already indicated on the records

(iv) Dosage of the drug which was used which shall include both the amount administered and any amount destroyed.

(v) Name of the patient to whom the drug was administered

(vi) Name of the practitioner who authorized the drug

(vii) Signature of the licensed individual who administered the drug.

(d) When it is necessary to destroy small amounts of controlled substances following the administration of a dose by a nurse, the destruction shall be witnessed by a second nurse who shall countersign the records of destruction.

(e) The director of the pharmacy shall develop written procedures for the proper destruction of controlled substances not covered by (d) above conforming with federal and state statutes. A copy of the procedures shall be forwarded to the Drug Enforcement Administration (DEA) and the state board of pharmacy. As a minimum, procedures shall include the following:

(i) All destructions shall render the drugs unrecoverable.

(ii) Destruction shall be accomplished by the pharmacist and one other licensed health professional.

(iii) Records of all destructions shall be maintained by the pharmacy. Quarterly summary reports shall be mailed to the DEA with copies to the state board of pharmacy.

(iv) A copy of the destruction record shall be maintained in the pharmacy for two years.

(f) Periodic monitoring of controlled substances records shall be performed by a nurse or a pharmacist to determine whether the drugs recorded on usage records have also been recorded on the patient's chart.

(g) Use of multiple dose vials of controlled substances shall be discouraged.

(h) Controlled substances, Schedule II and III, which are floor stocked, in any hospital patient or nursing service area shall be checked by actual count at the change of each shift by two authorized persons licensed to administer drugs.

(i) All controlled substance records shall be kept for two years.

(j) Hospitals wishing to use record systems other than that described above shall make application and receive written approval from the board of pharmacy prior to implementation.

(k) Significant losses or disappearances of controlled substances and the facts surrounding the discrepancy shall be reported to the board of pharmacy, the drug enforcement agency, the chief executive officer of the hospital and other appropriate authorities.

(8) Drug recall. The director shall develop and implement a recall procedure to assure that potential harm to patients within the hospital is prevented and that all drugs included on the recall are returned to the pharmacy for proper disposition.

(9) All medications administered to inpatients shall be recorded in the patient's medical record.

(10) Adverse drugs reactions. All adverse drug reactions shall be appropriately recorded in the patient's record and reported to the prescribing practitioner and to the pharmacy.

(11) Drug errors. All drug errors shall upon discovery be recorded in an incident report and reported to the prescribing practitioner and to the pharmacy.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-873-080, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-070, filed 7/29/81.]

246-873-090
Administration of drugs.

PHARMACY—HOSPITAL STANDARDS

(1) General. Drugs shall be administered only upon the order of a practitioner who has been granted clinical privileges to write such orders. Verbal orders for drugs shall only be issued in emergency or unusual circumstances and shall be accepted only by a licensed nurse, pharmacist, or physician, and shall be immediately recorded and signed by the person receiving the order. Such orders shall be authenticated by the prescribing practitioner within 48 hours.

(2) Administration. Drugs shall be administered only by appropriately licensed personnel in accordance with state and federal laws and regulations governing such acts and in accordance with medical staff approved hospital policy.

(3) Patient's drugs. The hospital shall develop written policies and procedures for the administration of drugs brought into the hospital by or for patients.

(a) Drugs brought into the hospital by or for the patient shall be administered only when there is a written order by a practitioner. Prior to use, such drugs shall be identified and examined by the pharmacist to ensure acceptable quality for use in the hospital.

(b) Drugs from outside the hospital which are not used during the patient's hospitalization shall be packaged and sealed, if stored in the hospital, and returned to the patient at time of discharge or given to the patient's family.

(c) Return of drugs may be prohibited due to possible jeopardy of the patient's health.

(d) Written procedures shall be developed for the disposal of unreturned drugs.

(4) Self-administration. Self-administration of drugs shall occur only within approved protocols in accordance with a program of self-care or rehabilitation. Policy and specific written procedures, approved by the appropriate medical staff, nursing service and administration shall be established by the director of pharmacy.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-080, filed 7/29/81.]

246-873-100
Investigational drugs.

(1) Distribution. Storage, distribution, and control of approved investigational drugs used in the institution shall be the responsibility of the director of pharmacy or his designee. The pharmacy shall be responsible for maintaining and providing information on approved investigational drugs.

(2) General. Investigational drugs shall be properly labeled and stored for use only under the explicit direction of the authorized principal investigator or coinvestigator(s). Such drugs shall be approved by an appropriate medical staff committee.

(3) Administration. On approval of the principal investigator or coinvestigator(s), those authorized to administer drugs may administer these drugs after they have been given basic pharmacological information about the drug. Investigational drugs shall be administered in accordance with approved written protocol that includes any requirements for the patient's appropriate informed consent.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-090, filed 7/29/81.]

246-873-110
Additional responsibilities of pharmacy service.

(1) General. The pharmacy service shall participate in other activities and committees within the hospital affecting pharmaceutical services, drugs and drug use.

(2) Quality assurance. The pharmaceutical service shall establish a pharmacy quality assurance program.

(3) Clinical activities. The director of pharmacy should develop clinically oriented programs, including but not limited to obtaining and recording comprehensive drug histories and participation in discharge planning to affect appropriate drug use, a formal drug information service, prescribing, and administration of drugs.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-873-110, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 81-16-036 (Order 162), § 360-17-100, filed 7/29/81.]

Chapter 246-875 WAC

Last Update: 5/28/92

PHARMACY—PATIENT MEDICATION RECORD SYSTEMS

WAC Sections

246-875-001 Purpose.
246-875-010 Definitions.
246-875-020 Minimum required information in an automated patient medication record system.
246-875-030 Minimum required information in a manual patient medication record system.
246-875-040 Minimum procedures for utilization of a patient medication record system.
246-875-050 Auxiliary recordkeeping procedure.
246-875-060 Retrieval of information from an automated system.
246-875-070 Confidentiality and security of data.
246-875-080 Extension of time for compliance.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-875-090 Effective date. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-100, filed 1/9/84.] Repealed by WSR 92-12-035 (Order 277B), filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005.

246-875-001
Purpose.

The purpose of this chapter shall be to insure that a patient medical record system is maintained by all pharmacies and other sites where the dispensing of drugs takes place, in order to insure the health and welfare of the patients served. This system will consist of certain patient and prescription information, and shall provide the pharmacist within the pharmacy means to retrieve all new prescription and refill prescription information relevant to patients of the pharmacy. It shall be designed to provide adequate safeguards against the improper manipulation or alteration of records, and to provide an audit trail. It may be either a manual system or an automated data processing system for the storage and retrieval of prescription and patient information. If an automated data processing system is utilized, an auxiliary recordkeeping procedure shall be available for documentation of new and refill prescriptions in case the automated system is inoperative for any reason. Establishment of a patient medication record system is intended to insure that the information it contains will be reviewed by the pharmacist in a manner consistent with sound professional practice when each prescription is filled.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-001, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-010, filed 1/9/84.]

246-875-010
Definitions.

Terms used in this chapter shall have the meaning set forth in this section unless the context clearly indicates otherwise:

(1) "Address" means the place of residence of the patient.

(2) "Audit trail" means all materials and documents required for the entire process of filling a prescription, which shall be sufficient to document or reconstruct the origin of the prescription order, and authorization of subsequent modifications of that order.

(3) "Auxiliary recordkeeping procedure" means a back-up procedure used to record medication record system data in case of scheduled or unscheduled down-time of an automated data processing system.

(4) "Hard copy of the original prescription" shall include the prescription as defined in RCW 18.64.011(8) and/or the medical records or chart.

(5) "Therapeutic duplication" means two or more drugs in the same pharmacological or therapeutic category which when used together may have an additive or synergistic effect.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-020, filed 1/9/84.]

246-875-020
Minimum required information in an automated patient medication record system.

An automated patient medication record system is an electronic system that must have the capability of capturing any data removed on a hard copy of microfiche copy. The hard copy of the original prescription and all documents in the audit trail shall be considered a part of this system.

(1) All automated patient medication record systems must maintain the following information with regard to ambulatory patients:

(a) Patient's full name and address.

(b) A serial number assigned to each new prescription.

(c) The date of all instances of dispensing a drug.

(d) The identification of the dispenser who filled the prescription.

(e) The name, strength, dosage form and quantity of the drug dispensed.

(f) Any refill instructions by the prescriber.

(g) The prescriber's name, address, and DEA number where required.

(h) The complete directions for use of the drug. The term "as directed" is prohibited pursuant to RCW 18.64.246 and 69.41.050.

(i) Any patient allergies, idiosyncrasies, or chronic condition which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(j) Authorization for other than child-resistant containers pursuant to WAC 246-869-230, if applicable.

(2) All automated patient medication record systems must maintain the following information with regard to institutional patients:

(a) Patient's full name.

(b) Unique patient identifier.

(c) Any patient allergies, idiosyncrasies, or chronic conditions which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(d) Patient location.

(e) Patient status, for example, active, discharge, or on-pass.

(f) Prescriber's name, address, and DEA number where required.

(g) Minimum prescription data elements:

(i) Drug name, dose, route, form, directions for use, prescriber.

(ii) Start date and time when appropriate.

(iii) Stop date and time when appropriate.

(iv) Amount dispensed when appropriate.

(h) The system shall indicate any special medication status for an individual prescription, for example, on hold, discontinued, self-administration medication, investigational drugs, patient's own medications, special administration times, restrictions, controlled substances.

(i) The system shall indicate on the labeling, and in the system, (for the pharmacist, nursing and/or physician alert) any special cautionary alerts or notations deemed necessary by the dispenser for the patient safety.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-875-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-030, filed 1/9/84.]

246-875-030
Minimum required information in a manual patient medication record system.

A manual patient medication record system consists of the hard copy of the original prescription and a card or filing procedure that contains all data on new and refill prescriptions for a patient. This data must be organized in such a fashion that information relating to all prescription drugs used by a patient will be reviewed each time a prescription is filled.

(1) All manual patient medication record systems must maintain the following information with regard to ambulatory patients:

(a) Patient's full name and address.

(b) A serial number assigned to each new prescription.

(c) The date of all instances of dispensing a drug.

(d) The identification of the dispenser who filled the prescription.

(e) The name, strength, dosage form and quantity of the drug dispensed.

(f) The prescriber's name, address and DEA number where appropriate.

(g) Any patient allergies, idiosyncrasies or chronic conditions which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(2) All manual patient medication record systems must maintain the following information with regard to institutional patients:

(a) Patient's full name.

(b) Unique patient identifier.

(c) Any patient allergies, idiosyncrasies, or chronic conditions which may relate to drug utilization. If there is no patient allergy data the pharmacist should indicate none or "NKA" (no known allergy) on the patient medication record.

(d) Patient location.

(e) Patient status, for example, active, discharge, or on-pass.

(f) Prescriber's name, address and DEA number where required.

(g) Minimum prescription data elements:

(i) Drug name, dose, route, form, directions for use, prescriber.

(ii) Start date and time when appropriate.

(iii) Stop date and time when appropriate.

(iv) Amount dispensed when appropriate.

(h) The system shall indicate any special medication status for an individual prescription, for example, on hold, discontinued, self-administration medication, investigational drugs, patient's own medications, special administration times, restrictions, controlled substances.

(i) The system shall indicate on the labeling, and in the system, (for the pharmacist, nursing and/or physician alert) any special cautionary alerts or notations deemed necessary by the dispenser for the patient safety.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-040, filed 1/9/84.]

246-875-040
Minimum procedures for utilization of a patient medication record system.

Upon receipt of a prescription or drug order, a dispenser must examine visually or via an automated data processing system, the patient's medication record to determine the possibility of a clinically significant drug interaction, reaction or therapeutic duplication, and to determine improper utilization of the drug and to consult with the prescriber if needed. Any order modified in the system must carry in the audit trail the unique identifier of the person who modified the order. Any change in drug name, dose, route, dose form or directions for use which occurs after an initial dose has been given requires that a new order be entered into the system and the old order be discontinued, or that the changes be accurately documented in the record system, without destroying the original record or its audit trail.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-050, filed 1/9/84.]

246-875-050
Auxiliary recordkeeping procedure.

PHARMACY—PATIENT MEDICATION RECORD SYSTEMS

If an automated data processing system is used to maintain a patient's medication record, an auxiliary recordkeeping procedure must be available for use when the automated data system is temporarily inoperative due to scheduled or unscheduled system interruption. The auxiliary recordkeeping procedure shall provide for the maintenance of all patient recordkeeping information as required by this chapter. Upon restoration of operation of the automated system the information placed in the auxiliary recordkeeping procedure shall be entered in each patient's records within two working days, after which the auxiliary records may be destroyed. This section does not require that a permanent dual recordkeeping system be maintained.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-060, filed 1/9/84.]

246-875-060
Retrieval of information from an automated system.

All automated patient medication record systems must provide within 72 hours, via CRT or hard copy printout, the information required by WAC 246-875-020 and by 21 C.F.R. § 1306.22(b) as amended July 1, 1980. Any data purged from an automated patient medication record system must be available within 72 hours.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-875-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-070, filed 1/9/84.]

246-875-070
Confidentiality and security of data.

(1) Information contained in patient medication record systems shall be considered to be a part of prescription records maintained in accordance with RCW 18.64.245 and shall be maintained for a period of at least two years in the same manner as provided for all prescription records (see WAC 246-869-100).

(2) The information in the patient medication record system which identifies the patient shall be deemed confidential and may be released to persons other than the patient or a pharmacist, or a practitioner authorized to prescribe only on written release of the patient. If in the judgment of the dispenser, the prescription presented for dispensing is determined to cause a potentially harmful drug interaction or other problem due to a drug previously prescribed by another practitioner, the dispenser may communicate this information to the prescribers.

(3) Security codes or systems must be established on automated medication record systems to prevent unauthorized modification of data.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-875-070, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-

875-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-080, filed 1/9/84.]

246-875-080
Extension of time for compliance.

The rules regarding patient medication record systems contained in chapter 246-875 WAC shall apply to all pharmacists practicing pharmacy in the state of Washington upon the effective date of the chapter unless an extension is granted by the board pursuant to this rule. In order to seek an extension that will allow compliance with this chapter to be delayed, good cause for granting such extension must be shown. The board shall consider requests for extensions and if, in the board's judgment good cause is shown, the board may grant an extension for a period of time, specifying those portions of the rules with respect to which an extension is being granted.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-875-080, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-875-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 84-03-016 (Order 181), § 360-19-090, filed 1/9/84.]

Chapter 246-877 WAC

Last Update: 10/1/97

PHARMACEUTICAL—SALES PROHIBITED

WAC Sections

246-877-020 Drug sample prohibitions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-877-030 Unsealed hard gelatin capsule restrictions. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-877-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 86-21-033 (Order 202), § 360-20-210, filed 10/9/86.] Repealed by WSR 97-20-166, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-877-020
Drug sample prohibitions.

(1) The possession, distribution or dispensing of legend drug samples by a pharmacy is hereby prohibited.

(2) This shall not apply to any pharmacy of a licensed hospital or health care entity which receives and distributes drug samples at the request of an authorized practitioner pursuant to RCW 69.45.050.

(3) A health care entity means any organization or business entity that provides diagnostic, medical, surgical, or dental treatment and/or rehabilitative care, but does not include any wholesale distributor or retail pharmacy licensed under state law.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-877-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-22-047, § 360-20-100, filed 10/30/89, effective 11/30/89; Order 114, § 360-20-100, filed 6/28/73.]

Chapter 246-878 WAC

Last Update: 4/6/94

GOOD COMPOUNDING PRACTICES

WAC Sections

246-878-010	Definitions.
246-878-020	Compounded drug products—Pharmacist.
246-878-030	Organization and personnel.
246-878-040	Facilities.
246-878-050	Sterile pharmaceutical.
246-878-060	Radiopharmaceuticals.
246-878-070	Special precaution products.
246-878-080	Equipment.
246-878-090	Control of components and drug product containers and closures.
246-878-100	Drug compounding controls.
246-878-110	Labeling control of excess products.
246-878-120	Records and reports.

246-878-010
Definitions.

(1) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

(2) "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, prepares, compounds, packages, or labels such substance or device.

(3) "Component" means any ingredient intended for use in the compounding of a drug product, including those that may not appear in such product.

[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-010, filed 4/6/94, effective 5/7/94.]

246-878-020
Compounded drug products—Pharmacist.

(1) Based on the existence of a pharmacist/patient/prescriber relationship and the presentation of a valid prescription, or in anticipation of prescription drug orders based on routine, regularly observed prescribing patterns, pharmacists may compound, for an individual patient, drug products that are commercially available in the marketplace. When a compounded product is to be substituted for a commercially available product, both the patient and also the prescriber must authorize the use of the compounded product. The pharmacist shall document these authorizations on the prescription or in the computerized patient medication record. The

prescriber's authorization shall be in addition to signing on the "substitution permitted" side of a written prescription or advising that substitution is permitted when a verbal prescription is issued.

(2) Pharmacists shall receive, store, or use drug substances for compounding prescriptions that meet official compendia requirements. If these requirements can not be met, and pharmacists document such, pharmacists shall use their professional judgment in the procurement of acceptable alternatives.

(3) Pharmacists may compound drugs in very limited quantities prior to receiving a valid prescription based on a history of receiving valid prescriptions that have been generated solely within an established pharmacist/patient/prescriber relationship, and provided that they maintain the prescriptions on file for all such products compounded at the pharmacy. The compounding of inordinate amounts of drugs, relative to the practice site, in anticipation of receiving prescriptions without any historical basis is considered manufacturing.

(4) Pharmacists shall not offer compounded drug products to other state-licensed persons or commercial entities for subsequent resale, except in the course of professional practice for a practitioner to administer to an individual patient. Compounding pharmacies/pharmacists may advertise or otherwise promote the fact that they provide prescription compounding services; however, they shall not solicit business (e.g., promote, advertise, or use salespersons) to compound specific drug products.

(5) The distribution of inordinate amounts of compounded products without a prescriber/patient/pharmacist relationship is considered manufacturing.

[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-020, filed 4/6/94, effective 5/7/94.]

246-878-030
Organization and personnel.

(1) The pharmacist has the responsibility and authority to inspect and approve or reject all components, drug product containers, closures, in-process materials, and labeling; and the authority to prepare and review all compounding records to assure that no errors have occurred in the compounding process. The pharmacist is also responsible for the proper maintenance, cleanliness, and use of all equipment used in prescription compounding practice.

(2) Pharmacists who engage in drug compounding, and level A pharmacy assistants, supervised by pharmacists, who assist in drug compounding, shall be competent and proficient in compounding and shall maintain that proficiency through current awareness and training. Every pharmacist who engages in drug compounding and any level A pharmacy assistant who assists in compounding, must be aware of and familiar with all details of these good compounding practices.

(3) Pharmacy personnel engaged in the compounding of drugs shall wear clean clothing appropriate to the operation being performed. Protective apparel, such as coats/jackets, aprons, gowns, hand or arm coverings, or masks shall be worn as necessary to protect personnel from chemical exposure and drug products from contamination.

(4) Only personnel authorized by the responsible pharmacist shall be in the immediate vicinity of the drug compounding operation. Any person shown at any time (either by medical examination or pharmacist determination) to have an apparent illness or open lesions that may adversely affect the safety or quality of a drug product being compounded shall be excluded from direct contact with components, drug product containers, closures, in-process materials, and drug products until the condition is corrected or determined by competent medical personnel not to jeopardize the safety or quality of the products being compounded. All

personnel who assist the pharmacist in compounding procedures shall be instructed to report to the pharmacist any health conditions that may have an adverse effect on drug products.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-030, filed 4/6/94, effective 5/7/94.]

246-878-040
Facilities.

(1) Pharmacies engaging in compounding shall have an adequate area for the orderly compounding of prescriptions, including the placement of equipment and materials. The drug compounding area for sterile products shall be separate and distinct from the area used for the compounding of nonsterile drug products. The area(s) used for compounding of drugs shall be maintained in a good state of repair.

(2) Bulk drugs and other chemicals or materials used in the compounding of drugs must be stored in adequately labeled containers in a clean, dry area or, if required, under proper refrigeration.

(3) Adequate lighting and ventilation shall be provided in all drug compounding areas. Potable water shall be supplied under continuous positive pressure in a plumbing system free of defects that could contribute contamination to any compounded drug product. Adequate washing facilities, easily accessible to the compounding area(s) of the pharmacy shall be provided. These facilities shall include, but not be limited to, hot and cold water, soap or detergent, and air driers or single-use towels.

(4) The area(s) used for the compounding of drugs shall be maintained in a clean and sanitary condition. It shall be free of infestation by insects, rodents, and other vermin. Trash shall be held and disposed of in a timely and sanitary manner. Sewage and other refuse in and from the pharmacy and immediate drug compounding area(s) shall be disposed of in a safe and sanitary manner.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-040, filed 4/6/94, effective 5/7/94.]

246-878-050
Sterile pharmaceutical.

If sterile products are being compounded, the conditions of chapter 246-871 WAC (Pharmaceutical—Parenteral products for nonhospitalized patients) shall be met.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-050, filed 4/6/94, effective 5/7/94.]

246-878-060
Radiopharmaceuticals.

If radiopharmaceuticals are being compounded, the conditions of chapter 246-903 WAC shall be met.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-060, filed 4/6/94, effective 5/7/94.]

246-878-070
Special precaution products.

If drug products with special precautions for contamination, such as penicillin, are involved in a compounding operation, appropriate measures, including either the dedication of equipment for such operations or the meticulous cleaning of contaminated equipment prior to its use for preparation of other drugs, must be utilized in order to prevent cross-contamination.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-070, filed 4/6/94, effective 5/7/94.]

246-878-080
Equipment.

(1) Equipment used in the compounding of drug products shall be of appropriate design, appropriate capacity, and suitably located to facilitate operations for its intended use and for its cleaning and maintenance. Equipment used in the compounding of drug products shall be suitable composition so that surfaces that contact components, in-process materials, or drug products shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug product beyond that desired.

(2) Equipment and utensils used for compounding shall be cleaned and sanitized immediately prior to use to prevent contamination that would alter the safety, identity, strength, quality, or purity of the drug product beyond that desired. In the case of equipment, utensils, and containers/closures used in the compounding of sterile drug products, cleaning, sterilization, and maintenance procedures as set forth in WAC 246-871-080.

(3) Equipment and utensils used for compounding drugs must be stored in a manner to protect them from contamination. Immediately prior to the initiation of compounding operations, they must be inspected by the pharmacist and determined to be suitable for use.

(4) Automatic, mechanical, electronic, or other types of equipment other than commercial scale manufacturing or testing equipment, may be used in the compounding of drug products. If such equipment is used, it shall be routinely inspected, calibrated (if necessary), or checked to ensure proper performance.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-080, filed 4/6/94, effective 5/7/94.]

246-878-090
Control of components and drug product containers and closures.

(1) Components, drug product containers, closures, and bagged or boxed components of drug product containers and closures used in the compounding of drugs shall be handled and stored in a manner to prevent contamination and to permit unhindered cleaning of the work area (e.g., floors) and inspection.

(2) Drug product containers and closures shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the compounded drug beyond the desired result. Components, drug product containers, and closures for use in the compounding of drug products shall be rotated so that the

oldest stock is used first. Container closure systems shall provide adequate protection against foreseeable external factors in storage and use that can cause deterioration or contamination of the compounded drug product. Drug product containers and closures shall be clean and, where indicated by the intended use of the drug, sterilized and processed to remove pyrogenic properties to assure that they are suitable for their intended use.

(3) Drug product containers and closures intended for the compounding of sterile products must be handled, sterilized, processed and stored to remove pyrogenic properties to assure that they are suitable for their intended purpose. Methods of cleaning, sterilizing, and processing to remove pyrogenic properties shall be written and followed for drug product containers and closures used in the preparation of sterile pharmaceuticals. These processes shall be performed by pharmacists, or under the pharmacist's supervision. [Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-090, filed 4/6/94, effective 5/7/94.]

246-878-100
Drug compounding controls.

(1) There shall be written procedures for the compounding of drug products to assure that the finished products have the identity, strength, quality, and purity they purport or are represented to possess. Such procedures shall include a listing of the components (ingredients), their amounts (in weight or volume), the order of component mixing, and a description of the compounding process. All equipment and utensils and the container/closure system, relevant to the sterility and stability of the intended use of the drug, shall be listed. These written procedures shall be followed in the execution of the drug compounding procedure.

(2) Components for drug product compounding shall be accurately weighed, measured, or subdivided as appropriate. These operations should be checked and rechecked by the compounding pharmacist at each stage of the process to ensure that each weight or measure is correct as stated in the written compounding procedures. If a component is transferred from the original container to another (e.g., a powder is taken from the original container, weighed, placed in a container, and stored in another container), the new container shall be identified with the:

(a) Component name; and

(b) Weight or measure.

(3) To assure the reasonable uniformity and integrity of compounded drug products, written procedures shall be established and followed that describe the tests or examinations to be conducted on the product compounded (e.g., degree of weight variation among capsules.) Such control procedures shall be established to monitor the output and to validate the performance of those compounding processes that may be responsible for causing variability in the final drug product. Such control procedures shall include, but are not limited to, the following (where appropriate):

(a) Capsule weight variation;

(b) Adequacy of mixing to assure uniformity and homogeneity;

(c) Clarity, completeness, or pH of solutions.

(4) Appropriate written procedures designed to prevent microbiological contamination of compounded drug products purporting to be sterile shall be established and followed. Such procedures shall include validation of any sterilization process.

[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-100, filed 4/6/94, effective 5/7/94.]

246-878-110
Labeling control of excess products.

(1) In the case where a quantity of compounded drug product in excess of that to be initially dispensed in accordance with WAC 246-878-020 is prepared, the excess product shall be labeled or documentation referenced with the complete list of ingredients (components), the preparation date, and the assigned beyond-use date based upon the pharmacist's professional judgment, appropriate testing, or published data. It shall also be stored and accounted for under conditions dictated by its composition and stability characteristics (e.g., in a clean, dry place on shelf or in the refrigerator) to ensure its strength, quality, and purity.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-110, filed 4/6/94, effective 5/7/94.]

246-878-120
Records and reports.

(1) Any procedures or other records required to be maintained in compliance with this chapter shall be retained for the same period of time as required in WAC 246-869-100 for the retention of prescription files.

(2) All records required to be retained under this chapter, or copies of such records, shall be readily available for authorized inspection during the retention period at the establishment where the activities described in such records occurred. These records or copies thereof shall be subject to photocopying or other means of reproduction as part of any such inspection.

(3) Records required under this chapter may be retained either as the original records or as true copies, such as photocopies, microfilm, microfiche, or other accurate reproductions of the original records.
[Statutory Authority: RCW 18.64.005. WSR 94-08-101, § 246-878-120, filed 4/6/94, effective 5/7/94.]

Chapter 246-879 WAC

Last Update: 2/13/98

PHARMACEUTICAL WHOLESALERS

WAC Sections

246-879-010	Definitions.
246-879-020	Minimum standards for wholesalers.
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246-879-070	Application for full line wholesaler license and over-the-counter only wholesaler license.
246-879-080	Application for controlled substance wholesaler license.
246-879-090	Export wholesaler.
246-879-100	Salvaging and reprocessing companies.
246-879-110	Violations and penalties.
246-879-120	Reciprocity.

246-879-010
Definitions.

(1) "Full line wholesaler" means any wholesaler authorized by the board to possess and sell legend drugs, controlled substances (additional registration required see WAC 246-879-080) and nonprescription drugs (over-the-counter - OTC see WAC 246-879-070) to a licensed pharmacy or other legally licensed or authorized person.

(2) "Over-the-counter only wholesaler" means any wholesaler authorized by the board to possess and sell nonprescription (OTC) drugs to any outlets licensed for resale.

(3) "Controlled substances wholesaler" means a licensed wholesaler authorized by the board to possess and sell controlled substances to a licensed pharmacy or other legally licensed or authorized person.

(4) "Export wholesaler" means any wholesaler authorized by the board to export legend drugs and nonprescription (OTC) drugs to foreign countries.

(5) "Blood" means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(6) "Blood component" means that part of the blood separated by physical or mechanical means.

(7) "Drug sample" means a unit of prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

(8) "Manufacturer" means anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a drug, provided that a pharmacist compounding drugs to be dispensed from the pharmacy in which the drugs are compounded pursuant to prescriptions for individual patients shall not be considered a manufacturer.

(9) "Prescription drug" means any drug required by state or federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

(10) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(a) The sale, purchase, or trade of a drug, an offer to sell, purchase or trade a drug, or the dispensing of a drug pursuant to a prescription:

(b) The lawful distribution of drug samples by manufacturers' representatives or distributors' representatives; or

(c) The sale, purchase, or trade of blood and blood components intended for transfusion.

(d) Intracompany sales, being defined as any transaction or transfer between any division, subsidiary, parent and/or affiliated or related company under the common ownership and control of a corporate entity, unless such transfer occurs between a wholesale distributor and a health care entity or practitioner.

(e) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this section, "emergency medical reasons" includes transfers of prescription drugs by retail pharmacy to another retail pharmacy or practitioner to alleviate a temporary shortage, except that the gross dollar value of such transfers shall not exceed five percent of the total prescription drug sale revenue of either the transferor or transferee pharmacy during any twelve consecutive month period.

(11) "Wholesale distributor" means anyone engaged in wholesale distribution of drugs, including but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses; including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-010, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-010, filed 3/2/82.]

246-879-020
Minimum standards for wholesalers.

The following shall constitute minimum requirements for the storage and handling of prescription drugs, and for the establishment and maintenance of prescription drug distribution records by wholesale drug distributors and their officers, agents, representatives, and employees:

(1) Facilities. All facilities at which prescription drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall:

(a) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(b) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(c) Have a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(d) Be maintained in a clean and orderly condition; and

(e) Be free from infestation by insects, rodents, birds, or vermin of any kind.

(2) Storage. All prescription drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs or with the requirements in the 22nd edition of the United States Pharmacopeia/National Formulary (USP/NF). United States

Pharmacopeia/National Formulary (USP/NF) is available for public inspection at the Office of the State Board of Pharmacy, 1300 Quince St SE, PO Box 47863, Olympia WA 98504-7863.

(a) If no storage requirements are established for a prescription drug, the drug may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(b) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, and/or logs shall be utilized to document proper storage of prescription drugs.

(3) Examination of materials.

(a) Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated prescription drugs or prescription drugs that are otherwise unfit for distribution. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to contents.

(b) Each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(4) Returned, damaged, and outdated prescription drugs.

(a) Prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other prescription drugs until they are destroyed or returned to their supplier.

(b) Any drug whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such, and shall be quarantined and physically separated from other drugs until they are either destroyed or returned to the supplier.

(c) If the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug shall be destroyed, or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the wholesale drug distributor shall consider, among other things, the conditions under which the drug has been held, stored, or shipped before or during its return and the condition of the drug and its container, carton, or labeling, as a result of storage or shipping.

(5) Written policies and procedures. Wholesale drug distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of prescription drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. Wholesale drug distributors shall include in their written policies:

(a) A procedure whereby the oldest approved stock of a drug product is distributed first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate.

(b) A procedure to be followed for handling recalls and withdrawals of prescription drugs. Such procedure shall be adequate to deal with recalls and withdrawals due to:

(i) Any action initiated at the request of the Food and Drug Administration or other federal, state, or local law enforcement or other governmental agency, including the board of pharmacy;

(ii) Any voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

(iii) Any action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design.

(c) A procedure to ensure that wholesale drug distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency.

(d) A procedure to ensure that any outdated drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for two years after disposition of the outdated drugs.

(6) Responsible persons. Wholesale drug distributors shall establish and maintain lists of officers, directors, managers, and other persons in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-020, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-020, filed 3/2/82.]

246-879-030
Inspections.

(1) Inspections shall be performed by representatives of the board of pharmacy to ensure compliance with chapter 246-879 WAC. The following items shall be included in these inspections:

(a) Housekeeping, sanitation, recordkeeping, accountability, security, types of outlets sold to and sources of drugs purchased.

(b) Wholesale drug distributors shall operate in compliance with applicable federal, state, and local laws and regulations.

(2) Wholesale drug distributors shall permit the board's authorized personnel and authorized federal, state, and local law enforcement officials to enter and inspect their premises and delivery vehicles, and to audit their records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law. Such officials shall be required to show appropriate identification prior to being permitted access to wholesale drug distributors' premises and delivery vehicles.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-030, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-030, filed 3/2/82.]

246-879-040
Records.

(1) Recordkeeping. Wholesale drug distributors shall establish and maintain inventories and records of transactions regarding the receipt and distribution or other disposition of prescription drugs. These records shall include the following information:

(a) The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;

(b) The identity and quantity of the drugs received and distributed or disposed of; and

(c) The dates of receipt and distribution or other disposition of the drugs.

(2) Inventories and records shall be made available for inspection and photocopying by an authorized official of any governmental agency charged with enforcement of these rules for a period of two years following disposition of the drugs.

(3) Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not electronically retrievable shall be made available for inspection within two working days of a request by an authorized official of any governmental agency charged with enforcement of these rules.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-040, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-040, filed 3/2/82.]

246-879-050
Security.

(1) All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(2) Access from outside the premises shall be kept to a minimum and be well-controlled.

(3) Entry into areas where prescription drugs are held shall be limited to authorized personnel.

(4) All facilities used for wholesale drug distribution shall be secure from unauthorized entry.

(5) Drug storage areas shall be constructed in such a manner as to prevent illegal entry.

(6) Adequate lighting shall be provided at the outside perimeter of the premises to reduce the possibility of illegal entry.

(7) All applicants for a license as a controlled substances wholesaler must comply with the security requirements as found in 21 C.F.R. 1301.02, 1301.71 through 1301.74 and 1301.90 through 1301.92.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-050, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-050, filed 3/2/82.]

246-879-060
Unauthorized sales.

No wholesaler distributor shall sell or distribute any prescription drugs or devices except to an individual, corporation, or entity who is authorized by law or regulation to possess such drugs or devices. No wholesaler shall sell any prescription drugs or devices to an ultimate consumer.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-060, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-060, filed 3/2/82.]

246-879-070

Application for full line wholesaler license and over-the-counter only wholesaler license.

(1) All applications for licensure of a new or relocated wholesaler shall be accompanied by the required fee as set forth in chapter 246-907 WAC.

(2) All license renewal applications shall be accompanied by the annual fee and contain the same information required in subsection (6) of this section.

(3) A change of ownership or location requires a new license.

(4) The license is issued to a person or firm and is nontransferable. Additions or deletions of a partner/partners shall be considered as a change of ownership.

(5) The license fee cannot be prorated.

(6) Every wholesale distributor, wherever located, who engages in wholesale distribution into, out of, or within this state must be licensed by the board in accordance with the laws and regulations of this state before engaging in wholesale distribution of prescription drugs.

(a) Minimum required information for licensure. The board requires the following from each wholesale drug distributor as part of the initial licensing procedure and as part of any renewal of such license.

(i) The name, full business address, and telephone number of the licensee;

(ii) All trade or business names used by the licensee;

(iii) Addresses, telephone numbers, and the names of contact persons for the facility used by the licensee for the storage, handling, and distribution of prescription drugs;

(iv) The type of ownership or operation (i.e., partnership, corporation, or sole proprietorship); and

(v) The name(s) of the owner and/or operator of the licensee, including:

(A) If a person, the name of the person;

(B) If a partnership, the name of each partner, and the name of the partnership;

(C) If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the state of incorporation, and the name of the parent company, if any;

(D) If a sole proprietorship, the full name of the sole proprietor and the name of the business entity.

(vi) When operations are conducted at more than one location by a single wholesale distributor, each such location shall be licensed by the board.

(vii) Change in any information required by this section shall be submitted to the board within thirty days after such change.

(b) Minimum qualifications. The board shall consider, at a minimum, the following factors in reviewing the qualifications of persons who engage in wholesale distribution of prescription drugs within the state:

(i) Any convictions of the applicant under any federal, state, or local laws relating to drug samples, wholesale, or retail drug distribution, or distribution of controlled substances;

(ii) Any felony convictions of the applicant under federal, state, or local laws;

(iii) The applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(iv) Any false or fraudulent material furnished by the applicant in any application made in connection with drug manufacturing or distribution;

(v) Suspension or revocation by federal, state, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(vi) Compliance with licensing requirements under previously granted licenses, if any;

(vii) Compliance with requirements to maintain and/or make available to the board, federal, state, or local enforcement officials those records required to be maintained by wholesale drug distributors; and

(viii) Any other factors or qualifications the board considers relevant to and consistent with public health and safety.

(c) The board shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be in the public interest. Public interest considerations shall be based on factors and qualifications that are directly related to the protection of the public health and safety.

(d) Personnel. As a condition for receiving and retaining a wholesale drug distributor license, the licensee shall require each person employed in any prescription drug wholesale distribution activity to have education, training, and experience, or any combination thereof, sufficient for that person to perform the assigned functions in such a manner as to provide assurance that the drug product quality, safety and security will at all times be maintained as required by law.

[Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-879-070, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-070, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-070, filed 3/2/82.]

246-879-080
Application for controlled substance wholesaler license.

Wholesale drug distributors that deal in controlled substances shall register with the board and with the Drug Enforcement Administration (DEA), and shall comply with applicable state, local, and DEA regulations.

(1) He/she must be licensed as a full line wholesaler.

(2) He/she must meet all security requirements as set forth in WAC 246-879-050.

(3) He/she must meet additional requirements for registration and fees as set forth in chapter 246-907 WAC.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-080, filed 7/14/92, effective 8/14/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-080, filed 3/2/82.]

246-879-090
Export wholesaler.

(1) Upon application the board may issue a wholesaler license for the primary business of exporting drugs to foreign countries.

(2) Such license authorizes the holder to export non-controlled drugs to persons in a foreign jurisdiction that have legitimate reasons to possess such drugs.

(3) Letters from consulate of the country to which drugs are exported should verify consignee receiving such drugs is legally entitled in that country to receive them, if applicable. These letters shall be made available to the board upon its request.

(4) Records to be kept by export wholesaler:

(a) Complete description of drug, including, name, quantity, strength, and dosage unit.

(b) Name and address of purchaser.

(c) Name and address of consignee in the country of destination.

(d) Name and address of forwarding agent.

(e) Proposed export date.

(f) Shippers involved and methods of shipment.

(5) The issuance of an export wholesaler license does not authorize delivery of drugs in the United States.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-879-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-21-090, filed 3/2/82.]

246-879-100
Salvaging and reprocessing companies.

Wholesale drug distributors shall be subject to the provisions of any applicable federal, state, or local laws or rules that relate to prescription drug product salvaging or reprocessing, including this chapter.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-100, filed 7/14/92, effective 8/14/92.]

246-879-110
Violations and penalties.

The board shall have the authority to suspend or revoke any licenses granted under this chapter upon conviction of violations of the federal, state, or local drug laws or rules. Before any license may be suspended or revoked, a wholesale distributor shall have a right to prior notice and a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW.

[Statutory Authority: RCW 18.64.005. WSR 92-15-069 (Order 289B), § 246-879-110, filed 7/14/92, effective 8/14/92.]

246-879-120
Reciprocity.

A wholesale distributor licensed in another state may be licensed in this state upon submission of the fee required in chapter 246-907 WAC and submission of information compiled by the National Association of Boards of Pharmacy (NABP) Clearinghouse demonstrating that the license is not, and has not been, the subject of adverse license action.

PHARMACY—PRESCRIPTION DRUG PRICE ADVERTISING

conditions.
246-881-030 Prohibition on advertising controlled substances.
246-881-040 Drug price disclosure—Required.

246-881-010
Drug price advertising defined.

Drug price advertising is the dissemination of nonpromotional information pertaining to the prices of legend or prescription drugs.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-881-010, filed 8/30/91, effective 9/30/91; Order 124, § 360-23-010, filed 10/31/74; Order 120, § 360-23-010, filed 3/11/74.]

246-881-020
Drug price advertising conditions.

A pharmacy may advertise legend or prescription drug prices provided:

(1) The advertising complies with all state and federal laws, including regulations of the United States Food and Drug Administration and the Washington State Consumer Protection Act, chapter 19.86 RCW.

(2) The advertising is solely directed towards providing consumers with drug price information and does not promote the use of a prescription drug or drugs to the public.

(3) The drug price advertising shall contain all the following information for all drug products or brand names used in the advertisement:

(a) The proprietary name of the drug product advertised, if any,

(b) The generic name of the drug product advertised, if any,

(c) The strength of the drug product advertised. If the drug product advertised contains more than one active ingredient and a relevant strength can be associated with it without indicating each active ingredient, the generic name and quantity of each active ingredient is not required.

(d) The dosage form of the drug product advertised, and

(e) The price charged for a specified quantity of the drug product.

(4) Advertising of any generic drug that in any way compares a generic drug to a brand name drug may not in any manner imply that the brand name drug is the product offered for sale.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-881-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 79-10-007 (Order 151, Resolution No. 9/79), § 360-23-020, filed 9/6/79; Order 124, § 360-23-020, filed 10/31/74; Order 120, § 360-23-020, filed 3/11/74.]

246-881-030
Prohibition on advertising controlled substances.

No person, partnership, corporation, association or agency shall advertise controlled substances for sale to the general public in any manner that promotes or tends to promote the use or abuse of those drugs. Controlled substances shall not be physically displayed to the public.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-881-030, filed 8/30/91, effective 9/30/91; Order 124, § 360-23-030, filed 10/31/74.]

246-881-040
Drug price disclosure—Required.

No pharmacy shall refuse to disclose the retail price of a prescription drug upon request by a consumer.
[Statutory Authority: RCW 18.64.005. WSR 96-02-008, § 246-881-040, filed 12/20/95, effective 1/20/96. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-881-040, filed 8/30/91, effective 9/30/91; Order 124, § 360-23-050, filed 10/31/74.]

Chapter 246-883 WAC

Last Update: 1/5/10

PHARMACEUTICAL—SALES REQUIRING PRESCRIPTIONS

246-883-020 Identification of legend drugs for purposes of chapter 69.41 RCW.
246-883-025 Introductory trade or stock packages.
246-883-030 Ephedrine prescription restrictions.
246-883-040 Regulated steroids.
246-883-050 Theophylline prescription restrictions.

246-883-020
Identification of legend drugs for purposes of chapter 69.41 RCW.

(1) In accordance with chapter 69.41 RCW, the board of pharmacy finds that those drugs which have been determined by the Food and Drug Administration, under the Federal Food, Drug and Cosmetic Act, to require a prescription under federal law should also be classified as legend drugs under state law because of their toxicity or potential for harmful effect, the methods of their use and the collateral safeguards necessary to their use, indicate that they are only safe for use under the supervision of a practitioner.

(2) For the purposes of chapter 69.41 RCW, legend drugs are drugs which have been designated as legend drugs under federal law and are listed as such in the 2009 edition of the *Drug Topics Red Book*. Copies of the list of legend drugs as contained in the *Drug Topics Red Book* are available for public inspection at the headquarters office of the State Board of Pharmacy, 310 Israel Road S.E., P.O. Box 47863, Olympia, Washington 98504-7863. To obtain copies of this list from the department, interested persons must submit a written request, indicating which format they wish to receive, and payment of the actual cost of the text or CD, including shipping and handling charges from the publisher. Requestors may also contact the publisher directly to obtain copies. The department takes no responsibility for periodic updates or online access. Arrangements for periodic updates or online access must be made directly with the publisher.

(3) There may be changes in the marketing status of drugs after the publication of the above reference. Upon application of a manufacturer or distributor, the board may grant authority for the over the counter distribution of certain drugs which had been designated as legend drugs in this reference. These determinations will be made after public hearing and will be published as an amendment to this chapter.

[Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 10-02-081, § 246-883-020, filed 1/5/10, effective 2/5/10. Statutory Authority: RCW 69.41.075 and 18.64.005(7). WSR 02-14-049, § 246-883-020, filed 6/27/02, effective 7/28/02. Statutory Authority: RCW 69.41.075, 18.64.005. WSR 00-06-078, § 246-883-020, filed 3/1/00, effective 4/1/00. Statutory Authority: RCW 69.41.075. WSR 96-21-041, § 246-883-020, filed 10/11/96, effective 11/11/96. Statutory Authority: RCW 18.64.005. WSR 92-09-070 (Order 264B), § 246-883-020, filed 4/14/92, effective 5/15/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-883-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.44.075 [69.41.075]. WSR 85-18-091 (Order 196), § 360-32-050, filed 9/4/85. Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 83-20-053 (Order 176), § 360-32-050, filed 9/29/83. Statutory Authority: RCW 69.41.075. WSR 81-10-025 (Order 160), § 360-32-050, filed 4/28/81. Statutory Authority: 1979 1st ex. s. c 139. WSR 79-09-138 (Order 149, Resolution No. 9/79), § 360-32-050, filed 9/5/79.]

246-883-025
Introductory trade or stock packages.

Introductory trade or stock packages may be distributed by registered drug manufacturers to licensed pharmacies under the following conditions:

(1) The package shall be invoiced by the drug manufacturer as a no charge sale.

(2) The product shall be distributed by the manufacturer to the pharmacy by mail or common carrier.

(3) The drug's package shall not be marked as a sample or with any other labeling that is inconsistent with the claim that the manufacturer intended the package for sale.

(4) The manufacturer shall be limited to distributing one introductory package of each dosage strength of a product on a one-time basis to a pharmacy in order to familiarize and assure that a company's new product will be available in pharmacies. The quantity shall not be larger than one hundred solid dosage units or sixteen liquid ounces.

[Statutory Authority: RCW 18.64.005. WSR 92-09-072 (Order 266B), § 246-883-025, filed 4/14/92, effective 5/15/92.]

246-883-030
Ephedrine prescription restrictions.

(1) The board of pharmacy, pursuant to RCW 69.41.075, hereby identifies ephedrine, or any of its salts in a solid or aqueous form normally intended for oral administration, in any quantity, as a legend drug subject to the restrictions of RCW 69.41.030.

(2) The following products containing ephedrine or its salts in the amount of 25 mg. or less per solid dosage unit or per 5 ml. of liquid forms in combination with other ingredients in therapeutic amounts are exempt from subsection (1) of this section:

	TRADE NAME	EPHEDRINE CONTENT
1.	AMESAC capsule (Russ)	25 mg. ephedrine HCL
2.	AZMA AID tablet (Various, eg Purepac)	24 mg. ephedrine HCL
3.	BRONC-EASE PLUS (Natur-Pharma)	25 mg. ephedrine HCL
4.	BRONCHODILATOR AND EXPECTORANT (PDK Labs)	25 mg. ephedrine HCL
5.	BRONITIN tablet (Whitehall)	24 mg. ephedrine HCL

TRADE NAME	EPHEDRINE CONTENT
6. BRONKAID tablet (Breon)	24 mg. ephedrine sulfate
7. BRONKOLIXER (Sterling Winthrop)	12 mg. ephedrine
8. BRONKOTABS tablet (Breon)	24 mg. ephedrine sulfate
9. EFEDRON nasal jelly (Hyrex)	0.6% ephedrine HCL in 20 g.
10. MINI THINS asthma relief (BDI Pharmaceuticals)	25 mg. ephedrine
11. PAZO HEMORRHOID suppositor (Bristol-Meyers)	3.86 mg. ephedrine sulfate
12. PAZO HEMORRHOID ointment (Bristol-Meyers)	0.2% ephedrine sulfate
13. PRIMATENE tablet (Whitehall)	24 mg. ephedrine HCL
14. PRIMATENE M tablet (Whitehall)	24 mg. ephedrine HCL
15. PRIMATENE P tablet (Whitehall)	24 mg. ephedrine HCL
16. QUELIDRINE (Abbott)	5 mg. ephedrine HCL
17. TEDRAL tablet (Parke-Davis)	24 mg. ephedrine HCL

TRADE NAME	EPHEDRINE CONTENT
18. THEODRINE tablet (Rugby)	25 mg. ephedrine HCL
19. VATRONOL nose drops (Vicks Health Care)	0.5% ephedrine sulfate

(3) Ma Huang or other botanical products of genus ephedra used in their natural state and containing 25 mg. or less of ephedrine per recommended dosage as a preparation for human consumption are not legend drugs for the purposes of this section.

(4) Any reformulation of listed products which increases the ephedrine content to more than 25 mg. of ephedrine per solid dosage unit or per 5 ml. of liquid forms shall negate the exemption. The manufacturers of listed products shall notify the board of any reformulation which increases the ephedrine content to more than 25 mg. of ephedrine per solid dosage unit or per 5 ml. of liquid forms prior to distributing that product in the state of Washington.

(5) Manufacturers of products containing 25 mg. or less of ephedrine per solid dosage unit or per 5 ml. of liquid forms in combination with other ingredients in therapeutic amounts may gain exemption from subsection (1) of this section if, prior to the distributing of any such product in the state of Washington, the manufacturer:

(a) Provides the board with the formulation of any such product;

(b) Provides the board samples of all dosage forms in which the product is to be marketed in the packaging in which the product is to be marketed; and

(c) Receives the board's approval to market such product.

[Statutory Authority: RCW 18.64.005. WSR 94-08-100, § 246-883-030, filed 4/6/94, effective 5/7/94; WSR 93-05-046 (Order 333B), § 246-883-030, filed 2/17/93, effective 3/20/93. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-883-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11) and 69.41.075. WSR 82-06-042 (Order 165), § 360-32-055, filed 3/2/82. Statutory Authority: RCW 69.41.075. WSR 81-10-025 (Order 160), § 360-32-055, filed 4/28/81. Statutory Authority: 1979 1st ex. s. c 139. WSR 79-09-138 (Order 149, Resolution No. 9/79), § 360-32-055, filed 9/5/79.]

246-883-040
Regulated steroids.

The board finds that the following drugs shall be classified as steroids for the purposes of RCW 69.41.310. The drugs designated shall include the following and any synthetic derivatives or any isomer, ester, salt, or derivative of the following that act in the same manner on the human body from the attached list:

(1) Anabolicum
(2) Anadrol
(3) Anatrofin
(4) Anavar
(5) Androxon
(6) Andriol
(7) Android

(8) bolandiol
(9) bolasterone
(10) boldenone
(11) boldenone undecylenate
(12) bolenol
(13) Bolfortan
(14) bolmantalate
(15) Cheque
(16) chlorotestosterone
(17) clostebol
(18) Deca Durabolin
(19) dehydrochlormethyl-testosterone
(20) Delatestyl
(21) Dianabol
(22) Dihydrolone
(23) dihydrotestosterone
(24) dimethazine
(25) Drive
(26) Drolban
(27) drostanolone
(28) Durabolin
(29) Durateston
(30) Equipoise
(31) Esiclene
(32) ethylestrenol
(33) Exoboline
(34) Finaject
(35) Fluoxymesterone
(36) formebolone
(37) Halotestin
(38) Halostein
(39) Hombreol
(40) Iontanyl
(41) Laurabolin
(42) Lipodex
(43) Maxibolin
(44) mesterolone
(45) metanabol
(46) methenolone acetate
(47) methenolone enanthate
(48) methandienone
(49) methandranone
(50) methandriol
(51) methandrostenolone

(52) methyltestosterone
(53) mibolerone
(54) Myagen
(55) Nandrolin
(56) nandrolone
(57) nandrolone decanoate
(58) nandrolone cyclotate
(59) nandrolone phenpropionate
(60) Nelavar
(61) Nerobol
(62) Nilevar
(63) nisterime acetate
(64) Norbolethone
(65) Nor-Diethylin
(66) norethandrolone
(67) Normethazine
(68) Omnifin
(69) oxandrolone
(70) oxymesterone
(71) oxymetholone
(72) Parabolan
(73) Permastril
(74) pizotyline
(75) Primobolone/Primobolan depot
(76) Primotestin/Primotestin depot
(77) Proviron
(78) Quinalone
(79) Quinbolone
(80) Restandol
(81) silandrone
(82) Sostanon
(83) Spectriol
(84) stanolone
(85) stanozolol
(86) stenbolone acetate
(87) Stromba
(88) Sustanon
(89) Tes-10
(90) Tes-20
(91) Tes-30
(92) Teslac
(93) testolactone
(94) testosterone
(95) testosterone cypionate
(96) testosterone enanthate
(97) testosterone ketolaurate

(98) testosterone phenylacetate
(99) testosterone propionate
(100) testosterone undecanoate
(101) Thiomucase
(102) tibolone
(103) trenbolone
(104) trenbolone acetate
(105) trestolone acetate
(106) Trophobolene
(107) Winstrol

[Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 92-12-035 (Order 277B), § 246-883-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-883-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-22-048, § 360-32-060, filed 10/30/89, effective 11/30/89.]

246-883-050
Theophylline prescription restrictions.

The board of pharmacy, pursuant to RCW 69.41.075, hereby identifies theophylline, or any of its salts in a solid or liquid form normally intended for oral administration in any quantity, as a legend drug subject to the restrictions of RCW 69.41.030. Provided, products containing 130 mg or less of theophylline per solid dosage unit or 130 mg or less per 5 ml of liquid forms, shall not be considered a legend drug and where the product contains other recognized therapeutic ingredients, may be sold or distributed without a prescription. Products with theophylline as the only active ingredient are identified as legend drugs.

[Statutory Authority: RCW 18.64.005. WSR 92-09-070 (Order 264B), § 246-883-050, filed 4/14/92, effective 5/15/92.]

Chapter 246-885 WAC

Last Update: 3/11/96

PHARMACY—IDENTIFICATION, IMPRINTS, MARKINGS, AND LABELING OF LEGEND DRUGS

WAC Sections

246-885-020 Drug imprint information provided by manufacturers and distributors.
246-885-030 Over-the-counter (OTC) drug imprint regulation.

246-885-020
Drug imprint information provided by manufacturers and distributors.

Each manufacturer and distributor who manufacturers or commercially distributes any legend drug in the state of Washington shall provide written information to the board identifying all current imprints used. This information shall be submitted on a form provided by the board and shall be updated annually, or as changes in imprints occur.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-885-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.41.240. WSR 83-10-013 (Order 174), § 360-33-050, filed 4/26/83.]

246-885-030
Over-the-counter (OTC) drug imprint regulation.

(1) Pursuant to the provisions of RCW 69.60.090, chapter 69.60 RCW will cease to exist in its entirety upon implementation by the federal Food and Drug Administration (FDA) of provisions regulating solid dosage imprinting of OTC medications and upon a finding by the Washington state board of pharmacy that the FDA regulations are substantially equivalent to those in chapter 69.60 RCW.

(2) The FDA adopted a final rule regarding OTC solid dosage imprinting, codified in 21 C.F.R. 206.01-10. This rule became effective September 13, 1995. The applicability of the federal rule is limited to those products introduced into interstate commerce on or after the effective date of the regulation. The rule is inapplicable to those noncompliant products introduced into interstate commerce prior to the effective date and to those products pending FDA review and approval of applications submitted by the manufacturer.

(3) The board finds that the inapplicability of the FDA rule to noncompliant products introduced into interstate commerce before the effective date and to those products currently on the market would permit the sale of these products in the state of Washington and thus fails to adequately protect the citizens of the state of Washington.

(4) Therefore, notwithstanding the provisions of 21 C.F.R. 206.1 et seq. no nonimprinted solid dosage form drug that is intended for OTC sale may be distributed into or sold in the state of Washington unless it has been found by the board to be exempt from the provisions of this chapter or has received an exemption from the FDA pursuant to 21 C.F.R. 206.7. Copies of official documents that support such exemptions shall be filed with the board prior to any distribution of the nonimprinted product(s).

[Statutory Authority: RCW 18.64.005. WSR 96-07-012, § 246-885-030, filed 3/11/96, effective 4/11/96.]

Chapter 246-886 WAC

Last Update: 5/22/15

ANIMAL CONTROL—LEGEND DRUGS AND CONTROLLED SUBSTANCES

WAC Sections

246-886-001 Purpose.
246-886-010 Definitions.
HUMANE SOCIETY AND ANIMAL CONTROL AGENCY
246-886-020 Registration.
246-886-030 Approved legend drugs.
246-886-035 Sodium pentobarbital—Approved controlled substance.
246-886-040 Training of personnel.
246-886-050 Legend drug administration.
246-886-060 Responsible individuals.
246-886-080 Recordkeeping and reports.
246-886-090 Drug storage and field use.
246-886-100 Violations.
CHEMICAL CAPTURE PROGRAM
246-886-150 Chemical capture programs.
246-886-160 Registration requirements.
246-886-170 Authorized individuals.
246-886-180 Approved legend drugs.
246-886-190 Controlled substances training.
246-886-200 Storage requirements.
246-886-210 Controlled substances records and reports.
246-886-220 Approved controlled substances.
246-886-230 Controlled substances registration disciplinary actions.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-886-070 Notification. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-080, filed 2/4/91, effective 3/7/91.] Repealed by WSR 12-21-118, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005.

246-886-001
Purpose.

The rules in this chapter establish the use of legend drugs and controlled substances for euthanasia by animal control agencies and humane societies, and chemical capture programs.

[Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-001, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-001, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-010, filed 2/4/91, effective 3/7/91.]

246-886-010
Definitions.

The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Animal control agency" means any agency authorized by law to euthanize or destroy animals; to sedate animals prior to euthanasia or to engage in chemical capture of animals.

(2) "Approved legend drugs" means any legend drug approved by the commission for use by registered humane societies or animal control agencies for the sole purpose of sedating animals prior to euthanasia, when necessary, and for use in chemical capture programs.

(3) "Chemical capture programs" means wildlife management programs registered under RCW 69.50.320 and 69.41.080 to use approved legend drugs and controlled substance for chemical capture. Chemical capture includes immobilization of individual animals in order for the animals to be moved, treated, examined, or for other legitimate purposes.

(4) "Commission" means the Washington state pharmacy quality assurance commission.

(5) "Controlled substances" means a drug, substance, or immediate precursor in Schedule I through V of Article II of chapter 69.50 RCW and Schedule I through V of chapter 246-887 WAC.

(6) "Humane society" means a nonprofit organization, association, or corporation, the primary purpose of which is to prevent cruelty to animals, place unwanted animals in homes, provide other services relating to "lost and found" pets, and provide animal care education to the public, as well as sponsoring a neutering program to control the animal population.

(7) "Legend drugs" means any drugs which are required by state law or regulation of the state pharmacy quality assurance commission to be dispensed on prescription only or are restricted to use by practitioners only.

(8) "Registered entity" means any humane society or animal control agency registered under RCW 69.50.310.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-010, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-010, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-020, filed 2/4/91, effective 3/7/91.]

246-886-020
Registration.

(1) Humane societies and animal control agencies registered with the commission under RCW 69.50.310 may purchase, possess, and administer sodium pentobarbital and approved legend drugs as provided in RCW 69.41.080.

(2) To apply for registration a humane society or animal control agency shall submit to the commission a completed application for registration on forms provided by the commission.

(3) A registered humane society or animal control agency shall:

(a) Employ at least one individual who has completed a training program described in WAC 246-886-040;

(b) Designate a responsible person as defined in WAC 246-886-060;

(c) Maintain written policies and procedures available for inspection by the commission that includes processes to:

(i) Require completion of approved training as defined in WAC 246-886-040 by each of the agency's agents or personnel who possess, and administer approved legend drugs or sodium pentobarbital, prior to being approved to administer such drugs;

(ii) Establish a system for the secure storage of all drugs to prevent access by unauthorized personnel to guard against theft and diversion;

(iii) Establish a system for accountability of access, use, and stocking of drug inventory;

(iv) Ensure the proper disposal of all drugs in compliance with state and federal laws and rules; and

(v) Establish a method to investigate and report the theft, loss, or diversion of approved legend drugs and sodium pentobarbital, in compliance with state and federal laws and rules.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-020, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 69.41.080. WSR 92-12-035 (Order 277B), § 246-886-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-030, filed 2/4/91, effective 3/7/91.]

246-886-030
Approved legend drugs.

The following legend drugs are designated as "approved legend drugs" for use by registered humane societies or animal control agencies for pre-euthanasia sedation:

(1) Acetylpromazine.

(2) Dexmedetomidine.

(3) Medetomidine.

(4) Xylazine.

[Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-030, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005. WSR 94-02-060, § 246-886-030, filed 1/3/94, effective 2/3/94. Statutory Authority: RCW 69.41.080. WSR 92-12-035 (Order 277B), § 246-886-030, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-040, filed 2/4/91, effective 3/7/91.]

246-886-035
Sodium pentobarbital—Approved controlled substance.

(1) Registered humane societies and animal control agencies may only use sodium pentobarbital to euthanize injured, sick, homeless or unwanted domestic pets, and domestic or wild animals.

(2) Registered humane societies and animal control agencies shall only possess sodium pentobarbital labeled "For veterinary use only."

[Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-035, filed 10/23/12, effective 11/23/12.]

246-886-040
Training of personnel.

(1) Personnel of a registered humane society or animal control agency may administer approved legend drugs and sodium pentobarbital if the individual:

(a) Has been approved by the registered entity to administer these drugs; and

(b) Has completed a commission approved training program or training that is substantially equivalent.

(2) Application for approval of a training program must be submitted to the commission prior to the initiation of training.

(3) A training program must:

(a) Use a manual approved by the commission;

(b) Be at least four hours in length;

(c) Be taught by a licensed veterinarian or by a person who has completed an approved training program taught by a licensed veterinarian;

(d) Require both didactic and practical training in the use of both approved legend drugs and sodium pentobarbital;

(e) Require a passing score of no less than seventy-five percent on a final examination; and

(f) Include, but not be limited to, the following topics:

(i) Anatomy and physiology:

(A) Methods of euthanasia;

(B) Routes of drug administration;

(C) Use of sedatives;

(D) Drug dosing;

(E) Use of restraints; and

(F) Process and verification of death;

(ii) Pharmacology of the drugs;

(iii) Indications, contraindications, and adverse effects;

(iv) Human hazards;

(v) Disposal of medical waste (needles, syringes, etc.);

(vi) Recordkeeping and security requirements; and

(vii) Applicable federal and state laws and rules.

(4) Training programs shall retain a list of persons who have successfully completed the program for a minimum of two years.

(5) The commission shall maintain a registry of approved training programs and manuals. Interested persons may request a copy of the registry by contacting the commission.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-040, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-

040, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-050, filed 2/4/91, effective 3/7/91.]

246-886-050
Legend drug administration.

Humane societies and animal control agencies and the staff of those agencies may not purchase, possess, or administer controlled substances or legend drugs except sodium pentobarbital and approved legend drugs as provided herein. Provided, staff may administer legend drugs and controlled substances which have been prescribed by a licensed veterinarian for a specific animal and which drugs have been dispensed by a pharmacy or a veterinarian and are properly labeled in accordance with either RCW 18.64.246 or 69.41.050.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-060, filed 2/4/91, effective 3/7/91.]

246-886-060
Responsible individuals.

(1) A registered humane society or animal control agency shall name a designated individual as the person who is responsible for maintaining all records and submitting all reports required by applicable federal or state law or rule.

(2) The designated individual is responsible for the ordering, possession, safe storage, and use of the sodium pentobarbital and approved legend drugs.
[Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-060, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 69.41.080. WSR 92-12-035 (Order 277B), § 246-886-060, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-070, filed 2/4/91, effective 3/7/91.]

246-886-080
Recordkeeping and reports.

(1) A registered humane society or animal control agency must use a bound logbook with consecutively numbered pages to record the receipt, use, and disposition of approved legend drugs and sodium pentobarbital. Only one drug may be recorded on any single page.

(2) The logbook must have sufficient detail to allow an audit of the drug usage to be performed and must include:

(a) Date and time of administration;

(b) Route of administration;

(c) Identification number or other identifier assigned to the animal;

(d) Estimated weight of the animal;

(e) Estimated age and breed of the animal;

(f) Name of drug used;

(g) Dose of drug administered;

(h) Amount of drug wasted; and

(i) Initials of the primary person administering the drug.

(3) The logbook may omit subsections (2)(b), (d), and (e) of this section if the information is recorded in other records cross-referenced by the animal identification number or other assigned identifier.

(4) Personnel of the registered entity shall document any errors or discrepancies in the drug inventory in the logbook. He or she shall report the findings to the responsible supervisor for investigation.

(5) The registered entity shall report any unresolved discrepancies in writing to the commission within seven days, and to the federal Drug Enforcement Administration if the loss includes a controlled substance.

(6) The designated individual, as defined in WAC 246-886-060, shall perform a physical inventory or count of approved legend drugs and sodium pentobarbital every six months. The physical inventory must be reconciled with the logbook.

(7) The supervisor or designated individual shall destroy legend drugs that are unfit for use due to contamination or having passed its expiration date. A second member of the staff shall witness drugs that are destroyed or wasted. The records of the destruction of drugs are documented in the logbook with the date of the event and signatures of the individuals involved.

(8) A registered entity shall return all unwanted or unused sodium pentobarbital to the manufacturer or destroy them in accordance with the rules and requirements of the commission, the federal Drug Enforcement Administration, and the department of ecology.

(9) A registered entity shall maintain a written list of all authorized personnel who have demonstrated the qualifications to possess and administer approved legend drugs, and sodium pentobarbital.

(10) All records of the registered entity must be available for inspection by the commission or any officer who is authorized to enforce this chapter.

(11) The registered entity shall maintain the logbook and other related records for a minimum of two years.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-080, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-080, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-090, filed 2/4/91, effective 3/7/91.]

246-886-090

Drug storage and field use.

ANIMAL CONTROL—LEGEND DRUGS AND CONTROLLED SUBSTANCES

(1) The registered humane society and animal control agency must store all approved legend drugs and sodium pentobarbital in a substantially constructed securely locked cabinet or drawer. Only those persons authorized to administer the drugs shall have keys to the storage area.

(2) The registered entity may designate only the following agents or personnel to possess and administer approved legend drugs and sodium pentobarbital for locations other than the registered location:

(a) Humane officer;

(b) Animal control enforcement officer;

(c) Animal control authority;

(d) Peace officer authorized by the chief of police, sheriff, or county commissioner.

(3) Designated agents of the registered entity may possess a supply of approved legend drugs and sodium pentobarbital for emergency field use. Such emergency supply must be stored in a locked metal box securely attached to the vehicle. The designated agent is responsible for:

(a) The drug inventory present at the beginning of a shift and is present or accounted for at the end of each shift.

(b) Recording all receipts and use of approved legend drugs and sodium pentobarbital from the emergency supply.

[Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-090, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-100, filed 2/4/91, effective 3/7/91.]

246-886-100
Violations.

The commission may suspend or revoke a registration issued under chapter 69.50 RCW if the commission determines that any agent or employee of a registered humane society or animal control agency has purchased, possessed, or administered legend drugs in violation of RCW 69.41.080 or 69.50.310, or this chapter or has otherwise demonstrated inadequate knowledge in the administration of legend drugs. The commission's revocation or suspension of a registration would restrict the registered entity's ability to use both approved legend drugs and sodium pentobarbital.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-100, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-100, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-886-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-04-056 (Order 140B), § 360-35-110, filed 2/4/91, effective 3/7/91.]

246-886-150
Chemical capture programs.

Purpose. Wildlife management programs often require the use of controlled substances and legend drugs for chemical capture programs. The purpose of these rules is to set requirements for the use of controlled substances and approved legend drugs in department of fish and wildlife chemical capture programs. Chemical capture includes immobilization of individual animals in order for the animals to be moved, treated, examined, or other legitimate purpose.
[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-150, filed 5/22/15, effective 6/22/15.]

246-886-160
Registration requirements.

(1) The department of fish and wildlife may apply to the commission for a limited registration under chapter 69.50 RCW (Uniform Controlled Substances Act) to purchase, possess, and administer controlled substances for use in chemical capture programs.

(2) Each department of fish and wildlife field office that stores controlled substances must register with the commission. The department of fish and wildlife shall notify the commission in writing of the names of individuals who are authorized to possess and administer controlled substances.

(3) In addition, the department of fish and wildlife shall designate one individual at each field office who shall be responsible for the ordering, possession, safe storage, and utilization of controlled substances. The department of fish and wildlife shall notify the commission in writing of the name of the designated individual.

(4) Controlled substances obtained under this limited registration shall be for veterinary use only.
[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-160, filed 5/22/15, effective 6/22/15.]

246-886-170
Authorized individuals.

To be eligible to possess and/or administer controlled substances and approved legend drugs, individuals must successfully complete an approved training program. The following individuals are authorized to possess and administer controlled substances:

(1) Department of fish and wildlife officers;

(2) Department of fish and wildlife biologists; and

(3) Department of fish and wildlife veterinarians.
[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-170, filed 5/22/15, effective 6/22/15.]

246-886-180
Approved legend drugs.

Chapter 246-886 WAC

Last Update: 5/22/15

ANIMAL CONTROL—LEGEND DRUGS AND CONTROLLED SUBSTANCES

The following legend drugs are designated as "approved legend drugs" for use by agents and biologists of the Washington state department of fish and wildlife chemical capture programs:

(1) Naltrexone;

(2) Detomidine;

(3) Metdetomidine; and

(4) Yohimbine.

[Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. WSR 12-21-118, § 246-886-180, filed 10/23/12, effective 11/23/12.]

246-886-190
Controlled substances training.

The department of fish and wildlife shall establish written policies and procedures to ensure that officers and biologists who administer controlled substances and approved legend drugs have received sufficient training. The training shall include, at a minimum, the safe handling and administration of controlled substances and the potential hazards. Officers and biologists must be able to demonstrate adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

The written policies and procedures shall be approved by the commission. Any amendments or deletions to the policies and procedures must be approved by the commission prior to implementation.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-190, filed 5/22/15, effective 6/22/15.]

246-886-200
Storage requirements.

Each registered location shall store the controlled substances in a securely locked, substantially constructed cabinet. Keys to the storage area shall be restricted to those persons authorized by the department of fish and wildlife to possess and administer the drugs.

Schedule II controlled substances shall be stored in a safe or steel cabinet equivalent to a U.S. Government Class V security container.

In addition to field offices, the department of fish and wildlife may allow officers, biologists, and veterinarians to possess a supply of controlled substances for use in the field. The field supply shall be stored in a locked metal box securely attached to a vehicle. The designated officer, biologist, or veterinarian shall be responsible to ensure that the controlled substances are accounted for at all times. All receipts and use of controlled substances from the field supply shall be recorded in a bound logbook with sequentially numbered pages.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-200, filed 5/22/15, effective 6/22/15.]

246-886-210
Controlled substances records and reports.

(1) The department of fish and wildlife shall be responsible for maintaining all records and submitting all reports required by federal or state law or regulation.

(2) A bound logbook with sequentially numbered pages shall be kept documenting the receipt and disposition of all controlled substances. In addition, all receipts and invoices shall be maintained for a period of two years.

(3) All records shall be available for inspection by the commission or any officer who is authorized to enforce this chapter.

(4) A physical inventory of approved controlled substances shall be performed, reconciled, and documented every twelve months. The inventory shall be signed and dated by the designated individual.

(5) Any discrepancy in the actual inventory of approved controlled substances shall be documented and reported immediately to the responsible supervisor who shall investigate the discrepancy. Any discrepancy that has not been corrected within seven days shall be reported in writing to the commission and the Drug Enforcement Administration (DEA).

(6) Unwanted or unused controlled substances shall be returned to the manufacturer or destroyed in accordance with the rules and requirements of the commission, the Drug Enforcement Administration, and the department of ecology.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-210, filed 5/22/15, effective 6/22/15.]

246-886-220
Approved controlled substances.

The following controlled substances are approved for use by officers and biologists of the department of fish and wildlife for chemical capture programs:

(1) Butorphanol;

(2) Diazepam (Valium);

(3) Diprenorphine;

(4) Carfentanil (Wildnil);

(5) Fentanyl;

(6) Ketamine;

(7) Midazolam; and

(8) Tiletamine and zolazepam (Telazol).

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-220, filed 5/22/15, effective 6/22/15.]

Chapter 246-886 WAC

Last Update: 5/22/15

ANIMAL CONTROL—LEGEND DRUGS AND CONTROLLED SUBSTANCES

246-886-230
Controlled substances registration disciplinary actions.

In addition to any criminal or civil liabilities that may occur, the commission may suspend or revoke a registration upon determination that the person administering controlled substances has not demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering controlled substances.

[Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19. WSR 15-12-020, § 246-886-230, filed 5/22/15, effective 6/22/15.]

Chapter 246-887 WAC

Last Update: 6/15/15

PHARMACY—REGULATIONS IMPLEMENTING THE UNIFORM CONTROLLED SUBSTANCES ACT

WAC Sections

246-887-020 Uniform Controlled Substances Act.
246-887-040 Designation of nonnarcotic stimulant drugs for purposes of RCW 69.50.402 (1)(c).
246-887-045 Prescribing, dispensing, or administering of Schedule II nonnarcotic stimulants.
246-887-080 Sodium pentobarbital registration disciplinary action.
246-887-090 Authority to control.
246-887-100 Schedule I.
246-887-110 Adding MPPP to Schedule I.
246-887-120 Adding PEPAP to Schedule I.
246-887-130 Adding MDMA to Schedule I.
246-887-131 Adding Methcathinone to Schedule I.
246-887-132 Adding Aminorex to Schedule I.
246-887-133 Adding Alpha-ethyltryptamine to Schedule I.
246-887-140 Schedule II.
246-887-150 Schedule II immediate precursors.
246-887-160 Schedule III.
246-887-165 Adding Xyrem to Schedule III.
246-887-170 Schedule IV.
246-887-180 Schedule V.
246-887-190 Adding buprenorphine to Schedule V.
246-887-200 Other controlled substance registrants—Requirements.
246-887-210 Standards for transmission of controlled substances sample distribution reports.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-887-030 Dispensing Schedule V controlled substances. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005, 18.81.080 and 42.17.290. WSR 83-01-083 (Order 171), § 360-36-020, filed 12/17/82. Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 82-19-022 (Order 169), § 360-36-020, filed 9/8/82; Order 108, § 360-36-020, filed 10/26/71.] Repealed by WSR 15-13-086, filed 6/15/15, effective 7/16/15. Statutory Authority: RCW 18.64.005, 2013 c 276, and 2013 c 19.

246-887-050 Sodium pentobarbital for animal euthanasia. [Statutory Authority: Chapter 69.50 RCW and RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-887-050, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-210, filed 8/8/89, effective 9/8/89; Order 138, § 360-36-210, filed 11/8/77.] Repealed by WSR 12-21-118, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. Later promulgation, see chapter 246-886 WAC.

246-887-060 Sodium pentobarbital administration. [Statutory Authority: Chapter 69.50 RCW and RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-887-060, filed 5/28/92, effective 6/28/92.

Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-250, filed 8/8/89, effective 9/8/89; Order 138, § 360-36-250, filed 11/8/77.] Repealed by WSR 12-21-118, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. Later promulgation, see chapter 246-886 WAC.

246-887-070 Sodium pentobarbital records and reports. [Statutory Authority: Chapter 69.50 RCW and RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-887-070, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-260, filed 8/8/89, effective 9/8/89; Order 138, § 360-36-260, filed 11/8/77.] Repealed by WSR 12-21-118, filed 10/23/12, effective 11/23/12. Statutory Authority: RCW 69.41.080, 69.50.310, and 18.64.005. Later promulgation, see chapter 246-886 WAC.

246-887-220 Chemical capture programs. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-220, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-230 Registration requirements. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-230, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-240 Authorized individuals. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-240, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-250 Controlled substances training. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-250, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-260 Storage requirements. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-260, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-270 Controlled substances records and reports. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-270, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-280 Approved controlled substances. [Statutory Authority: RCW 69.50.320 and 18.64.005. WSR 11-05-034, § 246-887-280, filed 2/8/11, effective 3/11/11; WSR 05-20-106, § 246-887-280, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

246-887-290 Controlled substances registration disciplinary actions. [Statutory Authority: RCW 69.50.320, 18.64.005. WSR 05-20-106, § 246-887-290, filed 10/5/05, effective 11/8/05.] Repealed by WSR 15-12-020, filed 5/22/15, effective 6/22/15. Statutory Authority: RCW 18.64.005, 69.50.320, 69.41.080, and 2013 c 19.

PHARMACY—REGULATIONS IMPLEMENTING THE UNIFORM CONTROLLED SUBSTANCES ACT

246-887-020
Uniform Controlled Substances Act.

(1) Consistent with the concept of uniformity where possible with the federal regulations for controlled substances (21 C.F.R.), the federal regulations are specifically made applicable to registrants in this state by virtue of RCW 69.50.306. Although those regulations are automatically applicable to registrants in this state, the pharmacy quality assurance commission (commission) is nevertheless adopting as its own regulations the existing regulations of the federal government published in the Code of Federal Regulations revised as of April 1, 1991, and all references made therein to the director or the secretary shall have reference to the commission, and the following sections are not applicable: Section 1301.11-.13, section 1301.31, section 1301.43-.57, section 1303, section 1308.41-.48, and section 1316.31-.67. The following specific rules shall take precedence over the federal rules adopted herein by reference, and therefore any inconsistencies shall be resolved in favor of the following specific rules.

(2) A separate registration is required for each place of business (as defined in section 1301.23) where controlled substances are manufactured, distributed or dispensed. Application for registration must be made on forms supplied by the commission, and all information called for thereon must be supplied unless the information is not applicable, in which case it must be indicated. An applicant for registration must hold the appropriate wholesaler, manufacturer or pharmacy license provided for in chapter 18.64 RCW.

(3) Every registrant shall be required to keep inventory records required by section 1304.04 (of the federal rules which have been adopted by reference by Rule 1) and must maintain said inventory records for a period of two years from the date of inventory. Such registrants are further required to keep a record of receipt and distribution of controlled substances. Such record shall include:

(a) Invoices, orders, receipts, etc. showing the date, supplier and quantity of drug received, and the name of the drug;

(b) Distribution records; i.e., invoices, etc. from wholesalers and manufacturers and prescriptions records for dispensers;

(c) In the event of a loss by theft or destruction, two copies of DEA 106 (report of theft or loss of controlled substances) must be transmitted to the federal authorities and a copy must be sent to the commission;

(d) For transfers of controlled substances from one dispenser to another, a record of the transfer must be made at the time of transfer indicating the drug, quantity, date of transfer, who it was transferred to and from whom. Said record must be retained by both the transferee and the transferor. These transfers can only be made in emergencies pursuant to section 1307.11 (federal rules).

(4) The records must be maintained separately for Schedule II drugs. The records for Schedule III, IV and V drugs may be maintained either separately or in a form that is readily retrievable from the business records of the registrant. Prescription records will be deemed readily retrievable if the prescription has been stamped in red ink in the lower right hand corner with the letter "C" no less than one inch high, and said prescriptions are filed in a consecutively numbered prescription file which includes prescription and noncontrolled substances.

(5) A federal order form is required for each distribution of a Schedule I or II controlled substance, and said forms along with other records required to be kept must be made readily available to authorized employees of the commission.

(6) Schedule II drugs require that a dispenser have a signed prescription in his possession prior to dispensing said drugs. An exception is permitted in an "emergency." An emergency exists when the immediate administration of the drug is necessary for proper treatment and no alternative treatment is available, and further, it is not possible for the physician to provide a written prescription for the drug at that time. If a Schedule II drug is dispensed in an emergency, the practitioner must deliver a signed prescription to the dispenser within 72 hours, and further he must note on the prescription that it was filled on an emergency basis.

(7) A prescription for a substance included in Schedule II may not be refilled.

(8) A prescription for a substance included in Schedule II may not be filled more than six months after the date the prescription was issued.

(9) Except when dispensed directly by a practitioner authorized to prescribe or administer a controlled substance, other than a pharmacy, to an ultimate user, a substance included in Schedule III, IV, or V, which is a prescription drug as determined under RCW 69.04.560, may not be dispensed without a written, oral, or electronically communicated prescription of a practitioner. Any oral prescription must be promptly reduced to writing. The prescription for a substance included in Schedule III, IV, or V may not be filled or refilled more than six months after the date issued by the practitioner or be refilled more than five times, unless the practitioner issues a new prescription.

[Statutory Authority: RCW 18.64.005, 2013 c 276, and 2013 c 19. WSR 15-13-086, § 246-887-020, filed 6/15/15, effective 7/16/15. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-887-020, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 92-04-029 (Order 239B), § 246-887-020, filed 1/28/92, effective 2/29/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-010, filed 8/8/89, effective 9/8/89. Statutory Authority: RCW 69.50.301. WSR 87-10-029 (Order 206), § 360-36-010, filed 5/1/87. Statutory Authority: RCW 18.64.005(4). WSR 85-06-010 (Order 193), § 360-36-010, filed 2/22/85. Statutory Authority: RCW 69.50.301. WSR 80-05-074 (Order 154, Resolution No. 4/80), § 360-36-010, filed 4/28/80; WSR 79-10-007 (Order 151, Resolution No. 9/79), § 360-36-010, filed 9/6/79. Statutory Authority: RCW 69.50.301 and chapter 69.50 RCW. WSR 78-02-070 (Order 140), § 360-36-010, filed 1/25/78; Order 132, § 360-36-010, filed 5/4/77; Order 108, § 360-36-010, filed 10/26/71.]

246-887-040

Designation of nonnarcotic stimulant drugs for purposes of RCW 69.50.402 (1)(c).

The board of pharmacy hereby designates, the following Schedule II controlled substances as nonnarcotic stimulants for purposes of RCW 69.50.402 (a)(3) [69.50.402 (1)(c)]:

(1) Amphetamine sulfate in any of its generic forms.

(2) Dextroamphetamine sulfate in any of its generic forms and under the following brand names:

(a) Dexedrine (SKF);

(b) Dexedrine spansules (SKF).

(3) Dextroamphetamine HCL in any of its generic forms.

(4) Dextroamphetamine tannate in any of its generic forms.

(5) Methamphetamine HCL (Desoxyephedrine HCL) in any of its generic forms and under the following brand name:

Desoxyn (Abbott).
(6) Amphetamine complex in any of its generic forms and under the following brand names:
(a) Biphetamine 12 1/2 (Pennwalt);
(b) Biphetamine 20 (Pennwalt).
(7) Combined amphetamines sold under the following brand names:
Obetrol-10 and 20 (Obetrol).
(8) Phenmetrazine HCL in any of its generic forms and under the following brand name:
(a) Preludin (Boehringer-Ingelheim).
(9) Methylphenidate HCL in any of its generic forms and under the following brand name:
(a) Ritalin (Ciba).
[Statutory Authority: RCW 18.64.005. WSR 92-04-029 (Order 239B), § 246-887-040, filed 1/28/92, effective 2/29/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 79-08-069 (Order 148, Resolution No. 7-79), § 360-36-115, filed 7/24/79.]

246-887-045
Prescribing, dispensing, or administering of Schedule II nonnarcotic stimulants.

The Schedule II stimulants listed in WAC 246-887-040 may be prescribed, dispensed, or administered to patients for the following disease states or conditions:
(1) Disease states or conditions listed in RCW 69.50.402 (3)(ii);
(2) Multiple sclerosis.
[Statutory Authority: RCW 69.50.402 and 18.64.005(7). WSR 03-04-045, § 246-887-045, filed 1/28/03, effective 2/28/03.]

246-887-080
Sodium pentobarbital registration disciplinary action.

In addition to any criminal or civil liabilities that may occur, the board may deny, suspend, or revoke registration upon determination that (1) the registration was procured through fraud or misrepresentation, (2) the registrant or any agent or employee of the registrant has violated any of the federal or state laws related to drugs, or has violated any of the rules or regulations of the board of pharmacy.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-270, filed 8/8/89, effective 9/8/89; Order 138, § 360-36-270, filed 11/8/77.]

246-887-090
Authority to control.

Pursuant to the authority granted to the board of pharmacy in RCW 69.50.201, the board has considered the following factors with regards to each of the substances listed in this chapter and in chapter 69.50 RCW:

(1) The actual or relative potential for abuse;

(2) The scientific evidence of its pharmacological effect, if known;

(3) The state of current scientific knowledge regarding the substance;

(4) The history and current pattern of abuse;

(5) The scope, duration, and significance of abuse;

(6) The risk to the public health;

(7) The potential of the substance to produce psychic or psychological dependence liability; and

(8) Whether the substance is an immediate precursor of a substance already controlled under the Uniform Controlled Substances Act (chapter 69.50 RCW).

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.209 and 69.50.211. WSR 84-22-062 (Order 190), § 360-36-400, filed 11/7/84.]

246-887-100
Schedule I.

The board finds that the following substances have high potential for abuse and have no accepted medical use in treatment in the United States or that they lack accepted safety for use in treatment under medical supervision. The board, therefore, places each of the following substances in Schedule I.

(a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol; (except for levo-alphacetylmethadol - Also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM);

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Benzethidine;

(9) Betacetylmethadol;

(10) Betameprodine;

(11) Betamethadol;

(12) Betaprodine;

(13) Clonitazene;

(14) Dextromoramide;
(15) Diampromide;
(16) Diethylthiambutene;
(17) Difenoxin;
(18) Dimenoxadol;
(19) Dimepheptanol;
(20) Dimethylthiambutene;
(21) Dioxaphetyl butyrate;
(22) Dipipanone;
(23) Ethylmethylthiambutene;
(24) Etonitazene;
(25) Etoxeridine;
(26) Furethidine;
(27) Gamma-hydroxybutyric Acid (other names include: GHB);
(28) Hydroxypethidine;
(29) Ketobemidone;
(30) Levomoramide;
(31) Levophenacylmorphan;
(32) 3-Methylfentanyl (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl)]-N-phenylpropanamide);
(33) Morpheridine;
(34) MPPP (1-Methyl-4-phenyl-4-propionoxypiperidine);
(35) Noracymethadol;
(36) Norlevorphanol;
(37) Normethadone;
(38) Norpipanone;
(39) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
(40) Phenadoxone;
(41) Phenampromide;
(42) Phenomorphan;
(43) Phenoperidine;
(44) Piritramide;
(45) Proheptazine;
(46) Properidine;
(47) Propiram;
(48) Racemoramide;
(49) Tilidine;
(50) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine;
(2) Acetyldihydrocodeine;

(3) Benzylmorphine;
(4) Codeine methylbromide;
(5) Codeine-N-Oxide;
(6) Cyprenorphine;
(7) Desomorphine;
(8) Dihydromorphine;
(9) Drotebanol;
(10) Etorphine (except hydrochloride salt);
(11) Heroin;
(12) Hydromorphinol;
(13) Methyldesorphine;
(14) Methyldihydromorphine;
(15) Morphine methylbromide;
(16) Morphine methylsulfonate;
(17) Morphine-N-Oxide;
(18) Myrophine;
(19) Nicocodeine;
(20) Nicomorphine;
(21) Normorphine;
(22) Pholcodine;
(23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers):

(1) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;

(2) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;

(3) 2,5-dimethoxy-4-ethylamphetamine (DOET)

(4) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;

(5) 5-methoxy-3,4-methylenedioxy-amphetamine;

(6) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";

(7) 3,4-methylenedioxy amphetamine;

(8) 3,4-methylenedioxymethamphetamine (MDMA);

(9) 3,4,5-trimethoxy amphetamine;

(10) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(11) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;

(12) Dimethyltryptamine: Some trade or other names: DMT;

(13) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyndo (1',2':1,2) azepino (5,4-b) indole; Tabernanthe iboga;

(14) Lysergic acid diethylamide;

(15) Marihuana;

(16) Mescaline;

(17) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(18) Peyote, meaning all parts of the plant presently classified botanically as Lophophora Williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. § 812 (c), Schedule I (c)(12))

(19) N-ethyl-3-piperidyl benzilate;

(20) N-methyl-3-piperidyl benzilate;

(21) Psilocybin;

(22) Psilocyn;

(23) Any of the following synthetic cannabimimetics, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, and AM-2201;

(ii) Naphthylmethylindoles: Any compound containing a1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-175, JWH-184, and JWH-199;

(iii) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-307;

(iv) Naphthylmethylindenes: Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-176;

(v) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, JWH-203, JWH-250, JWH-251, and RCS-8;

(vi) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not substituted in the cyclohexyl ring to any extent including, but not limited to, Cannabicyclohexanol, and CP 47,497;

(vii) Benzoylindoles: Any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, and AM-1241;

(viii) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de]-[1,4-benzoxazin-6-yl]-1-napthalenylmethanone: Some trade or other names: WIN 55,212-2.

(24) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp., and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1 - cis - or transtetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) Delta 6 - cis - or transtetrahydrocannabinol, and their optical isomers;

(iii) Delta 3,4 - cis - or transtetrahydrocannabinol, and its optical isomers;

(iv) (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-ol: Some trade or other names: HU-210.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(25) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(26) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phencyclohexyl)pyrrolidine; PCPy; PHP;

(27) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexly)-pipendine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Mecloqualone;

(ii) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Cathinone (also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

(2) 4-Fluoromethcathinone (Flephedrone);

(3) Beta-keto-N-Methylbenzodioxolylpropylamine (bk-MBDB, Butylone);

(4) 3,4-Methylenedioxymethcathinone (Methylone);

(5) 3,4-Methylenedioxypyrovalerone (MDPV);

(6) 4-Methylmethcathinone (Mephedrone);

(7) Fenethylline;
(8) N-ethylamphetamine;
(9) 4-methylaminorex;
(10) N,N-dimethylamphetamine.
[Statutory Authority: RCW 18.64.005, 69.50.201, and 69.50.203. WSR 11-22-086, § 246-887-100, filed 11/1/11, effective 12/2/11. WSR 01-03-108, § 246-887-100, filed 1/22/01, effective 1/22/01. Statutory Authority: RCW 18.64.005. WSR 94-08-098, § 246-887-100, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.65.005 and 18.64.005. WSR 94-07-105, § 246-887-100, filed 3/18/94, effective 3/18/94. Statutory Authority: RCW 18.64.005. WSR 92-04-029 (Order 239B), § 246-887-100, filed 1/28/92, effective 2/29/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-410, filed 8/8/89, effective 9/8/89; WSR 86-16-057 (Order 200), § 360-36-410, filed 8/1/86. Statutory Authority: RCW 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.209 and 69.50.211. WSR 84-22-062 (Order 190), § 360-36-410, filed 11/7/84.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

246-887-110
Adding MPPP to Schedule I.

The Washington state board of pharmacy finds that 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP) has high potential for abuse and has no medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision, and hereby places that substance in Schedule I.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-110, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.44.075 [69.41.075]. WSR 85-18-091 (Order 196), § 360-36-411, filed 9/4/85.]

246-887-120
Adding PEPAP to Schedule I.

The Washington state board of pharmacy finds that 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP) has high potential for abuse and has no medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision, and hereby places that substance in Schedule I.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-120, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.44.075 [69.41.075]. WSR 85-18-091 (Order 196), § 360-36-412, filed 9/4/85.]

246-887-130
Adding MDMA to Schedule I.

The Washington state board of pharmacy finds that 3,4-methylenedioxymethamphetamine (MDMA) has high potential for abuse and has no medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision, and hereby places that substance in Schedule I.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-130, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.44.075 [69.41.075]. WSR 85-18-091 (Order 196), § 360-36-413, filed 9/4/85.]

246-887-131
Adding Methcathinone to Schedule I.

The Washington state board of pharmacy finds that Methcathinone (also called 2-methylamino-1-phenylpropan-1-one, ephedrone, Monomethylpropion, UR 1431) its salts, optical isomers and salts of optical isomers has high potential for abuse and has no medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision and hereby places that substance in Schedule I.
[Statutory Authority: RCW 18.64.005. WSR 92-23-059 (Order 318B), § 246-887-131, filed 11/17/92, effective 12/18/92.]

246-887-132
Adding Aminorex to Schedule I.

The Washington state board of pharmacy finds that Aminorex (also called aminoxaphen, 2-amino-5-phenyl-2-oxazoline or 4.5-dihydro-5-phenyl-2-oxazolamine) its salts, optical isomers and salts of optical isomers has high potential for abuse and has no medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision and hereby places that substance in Schedule I.
[Statutory Authority: RCW 18.64.005. WSR 93-14-037 (Order 375B), § 246-887-132, filed 6/29/93, effective 7/30/93.]

246-887-133
Adding Alpha-ethyltryptamine to Schedule I.

The Washington state board of pharmacy finds that Alpha-ethyltryptamine has been classified as both a central nervous system stimulant and as a tryptamine hallucinogen. The DEA used its emergency scheduling authority to place this under Schedule I after finding that immediate CSA control was necessary to avoid an imminent hazard to public safety. The substance has been found by DEA in clandestine laboratories and on the illicit drug market. Therefore the Washington state board of pharmacy places Alpha-ethyltryptamine under control of Schedule I of the Controlled Substances Act.
[Statutory Authority: RCW 18.64.005. WSR 94-08-098, § 246-887-133, filed 4/6/94, effective 5/7/94.]

PHARMACY—REGULATIONS IMPLEMENTING THE UNIFORM CONTROLLED SUBSTANCES ACT

246-887-140
Schedule II.

The board finds that the following substances have a high potential for abuse and have currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions and that the abuse of the following substances may lead to severe psychic or psychological dependence. The board, therefore, places each of the following substances in Schedule II.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule II.

(b) Substances. (Vegetable origin or chemical synthesis.) Unless specifically excepted, any of the following substances, except those listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

(i) Raw opium;
(ii) Opium extracts;
(iii) Opium fluid;
(iv) Powdered opium;
(v) Granulated opium;
(vi) Tincture of opium;
(vii) Codeine;
(viii) Ethylmorphine;
(ix) Etorphine hydrochloride;
(x) Hydrocodone;
(xi) Hydromorphone;
(xii) Metopon;
(xiii) Morphine;
(xiv) Oxycodone;
(xv) Oxymorphone; and
(xvi) Thebaine.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Methylbenzoylecgonine (cocaine—its salts, optical isomers, and salts of optical isomers).

(6) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk dextropropoxyphene (nondosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alphacetylmethadol - also known as levo-alpha-acetylmethadol, levomethadyl acetate or LAAM;

(12) Levomethorphan;

(13) Levorphanol;

(14) Metazocine;

(15) Methadone;

(16) Methadone—Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane;

(17) Moramide—Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;

(18) Pethidine (meperidine);

(19) Pethidine—Intermediate—A,4-cyano-1-methyl-4-phenylpiperidine;

(20) Pethidine—Intermediate—B,ethyl-4-phenylpiperidine-4-carboxylate;

(21) Pethidine—Intermediate—C,1-methyl-4-phenylpiperidine-4-carboxylic acid;

(22) Phenazocine;

(23) Piminodine;

(24) Racemethorphan;

(25) Remifentanil;

(26) Racemorphan;

(27) Sufentanil.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(2) Methamphetamine, its salts, optical isomers, and salts of optical isomers;

(3) Phenmetrazine and its salts;

(4) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital;

(2) Glutethimide;

(3) Pentobarbital;

(4) Phencyclidine;

(5) Secobarbital.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(2) Phenylacetone: Some trade or other names phenyl-2-propanone, P2P, benzyl methyl ketone, methyl benzyl ketone.

(3) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine;

(ii) 1-piperidinocyclohexanecarbonitrile (PCC).

(g) Hallucinogenic substances.

(1) Nabilone. (Another name for nabilone: (±)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one.)

[WSR 00-01-075, § 246-887-140, filed 12/13/99. WSR 97-21-054, § 246-887-140, filed 10/13/97, effective 11/13/97. Statutory Authority: RCW 18.65.005 and 18.64.005. WSR 94-07-105, § 246-887-140, filed 3/18/94, effective 3/18/94. Statutory Authority: RCW 18.64.005. WSR 92-04-029 (Order 239B), § 246-887-140, filed 1/28/92, effective 2/29/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-140, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-420, filed 8/8/89, effective 9/8/89; WSR 86-16-057 (Order 200), § 360-36-420, filed 8/1/86. Statutory Authority: RCW 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.209 and 69.50.211. WSR 84-22-062 (Order 190), § 360-36-420, filed 11/7/84.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

Reviser's note: Under RCW 69.50.201 (2)(e), the above section was **not** adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

246-887-150
Schedule II immediate precursors.

(1) The board finds and designates the following substances as being the principal compound used or produced primarily for use and which are an immediate chemical intermediary used or likely to be used, in the

manufacture of a Schedule II controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(2) Unless specifically excepted or listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances or their salts or isomers having potential for abuse associated with the preparation of controlled substances shall be a Schedule II controlled substance.

(a) Anthranilic acid.

(b) Ephedrine.

(c) Hydriodic acid.

(d) Methylamine.

(e) Phenylacetic acid.

(f) Pseudoephedrine.

(g) Methephedrine.

(h) Lead acetate.

(i) Methyl formamide.

Provided: That any drug or compound containing Ephedrine, or any of its salts or isomers, or Pseudoephedrine, or any of its salts or isomers that are prepared for dispensing or over-the-counter distribution and are in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances for the purpose of this section: And Provided Further, That any cosmetic containing lead acetate that is distributed in compliance with the Federal Food, Drug and Cosmetic Act and applicable regulations are not controlled substances.

[Statutory Authority: RCW 18.65.005 and 18.64.005. WSR 94-07-105, § 246-887-150, filed 3/18/94, effective 3/18/94. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-150, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-11-007 (Order 214), § 360-36-425, filed 5/9/88. Statutory Authority: RCW 18.64.005(11). WSR 88-06-060 (Order 211), § 360-36-425, filed 3/2/88.]

246-887-160
Schedule III.

The board finds that the following substances have a potential for abuse less than the substances listed in Schedules I and II, and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to moderate or low physical dependency or high psychological dependency. The board, therefore, places each of the following substances in Schedule III.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations are referred to as excepted compounds in Schedule III as published in 21 C.F.R. 1308.13 (b)(1) as of April 1, 1984, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(2) Benzphetamine;
(3) Chlorphentermine;
(4) Clortermine;
(5) Phendimetrazine.
(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
(1) Any compound, mixture, or preparation containing:
(i) Amobarbital;
(ii) Secobarbital;
(iii) Pentobarbital;
or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule;
(2) Any suppository dosage form containing:
(i) Amobarbital;
(ii) Secobarbital;
(iii) Pentobarbital;
or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository;
(3) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid;
(4) Chlorhexadol;
(5) Ketamine, its salts, isomers, and salts of isomers—some other names for ketamine: (<plus-minus>)-2-(2- chlorophenyl)-2-(methylamino)-cyclohexanone;
(6) Lysergic acid;
(7) Lysergic acid amide;
(8) Methyprylon;
(9) Sulfondiethylmethane;
(10) Sulfonethylmethane;
(11) Sulfonmethane;
(12) Tiletamine and zolazepam or any salt thereof—some trade or other names for a tiletamine-zolazepam combination product: Telazol some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl) cyclohexanone—some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4] diazepin 7 (1H)-one flupyrazapon.
(d) Nalorphine.
(e) Anabolic steroids. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:
(1) Boldenone;
(2) Chlorotestosterone;
(3) Clostebol;
(4) Dehydrochlormethyltestosterone;
(5) Dihydrotestosterone;

(6) Drostanolone;
(7) Ethylestrenol;
(8) Fluoxymesterone;
(9) Formebulone (Formebolone);
(10) Mesterolone;
(11) Methandienone;
(12) Methandranone;
(13) Methandriol;
(14) Methandrostenolone;
(15) Methenolone;
(16) Methyltestosterone;
(17) Mibolerone;
(18) Nandrolone;
(19) Norethandrolone;
(20) Oxandrolone;
(21) Oxymesterone;
(22) Oxymetholone;
(23) Stanolone;
(24) Stanozolol;
(25) Testolactone;
(26) Testosterone;
(27) Trenbolone; and
(28) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

The following are implants or pellets which are exempt:

Ingredients	**Trade Name**	**Company**
Testosterone Propionate, Oestradiol Benzoate	F-TO	Animal Health Div. Upjohn International Kalamazoo, MI
Trenbolone Acetate	Finaplix-H	Hoechst-Roussel Agri-Vet Co., Somerville, NJ
Trenbolone Acetate	Finaplix-S	Hoechst-Roussel

Ingredients	Trade Name	Company
		Agri-Vet Co., Somerville, NJ
Testosterone Propionate, Estradiol Benzoate	Heifer-oid	Anchor Division Boehringer Ingelheim St. Joseph, MO
Testosterone Propionate, Estradiol Benzoate	Heifer-oid	Bio-Ceutic Division Boehringer Ingelheim St. Joseph, MO
Testosterone Propionate, Estradiol Benzoate	Heifer-oid	Ivy Laboratories, Inc. Overland Park, KS
Testosterone Propionate, Estradiol Benzoate	Implus	The Upjohn Co. Kalamazoo, MI
Trenbolone Acetate, Estradiol	Revalor-s	Hoechst-Roussel Agri-Vet Co., Somerville, NJ
Testosterone Propionate, Estradiol Benzoate	Synovex H	Syntex Laboratories Palo Alto, CA

(f) The following anabolic steroid products containing compounds, mixtures, or preparations are exempt from the recordkeeping, refill restrictions, and other Controlled Substances Act requirements:

Ingredients	Trade Name	Company
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Androgyn L.A.	Forest Pharmaceuticals St. Louis, MO
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Andro-Estro 90-4	Rugby Laboratories Rockville Centre, NY
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	depANDROGYN	Forest Pharmaceuticals St. Louis, MO
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	DEPO-T.E.	Quality Research Laboratories Carmel, IN
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	depTESTROGEN	Martica Pharmaceuticals Phoenix, AZ
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Duomone	Wintec Pharmaceutical Pacific, MO
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	DURATESTRIN	W.E. Hauck Alpharetta, GA
Testosterone cypionate 50 mg/ml	DUO-SPAN II	Primedics Laboratories Gardena, CA

Ingredients	Trade Name	Company
Esterified cypionate 2 mg/ml		
Esterified estrogens 1.25 mg. Methyltestosterone 2.5 mg.	Estratest	Solvay Pharmaceuticals Marietta, GA
Esterified estrogens 0.525 mg. Methyltestosterone 1.25 mg.	Estratest HS	Solvay Pharmaceuticals Marietta, GA
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	PAN ESTRA TEST	Pan American Labs Covington, LA
Conjugated estrogens 1.25 mg. Methyltestosterone 10 mg.	Premarin with Methyltestosterone	Ayerst Labs, Inc. New York, NY
Conjugated estrogens 0.625 mg. Methyltestosterone 5 mg.	Premarin with Methyltestosterone	Ayerst Labs, Inc. New York, NY
Testosterone propionate 25 mg Estradiol benzoate 2.5 mg	Synovex H Pellets in process	Syntex Animal Health Palo Alto, CA
Testosterone propionate 10 parts Estradiol benzoate	Synovex H Pellets in process, granulation	Syntex Animal Health Palo Alto, CA

Ingredients	Trade Name	Company
1 part		
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	Testagen	Clint Pharmaceutical Nashville, TN
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	TEST-ESTRO Cypionates	Rugby Laboratories Rockville Centre, NY
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	Testosterone Cyp 50 Estradiol Cyp 2	I.D.E.-Interstate Amityville, NY
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Best Generics No. Miami Beach, FL
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Goldline Labs Ft. Lauderdale FL
Testosterone cypionate 50 mg/ml Estradiol cypionate 2 mg/ml	Testosterone Cypionate-Estradiol Cypionate Injection	Schein Pharmaceuticals Port Washington, NY
Testosterone cypionate 50 mg/ml Estradiol cypionate	Testosterone Cypionate-Estradiol Cypionate Injection	Steris Labs, Inc. Phoenix, AZ

Ingredients	Trade Name	Company
2 mg/ml		
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Testosterone Enanth-ate-Estradiol Valer-ate Injection	Goldline Labs Ft. Lauderdale FL
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Testosterone Enanthate-Estradiol Valerate Injection	Schein Pharmaceuticals Port Washington, NY
Testosterone enanthate 90 mg/ml Estradiol valerate 4 mg/ml	Testosterone Enanthate-Estradiol Valerate Injection	Steris Labs, Inc. Phoenix, AZ

(g) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in paragraph (e) of this section:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(h) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts, as set forth below;

(1) Buprenorphine.

(i) Hallucinogenic substances.

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved product. (Some other names for dronabinol [6aR-trans]-6a,7,8, 10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d] pyran-i-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.)

[Statutory Authority: RCW 18.64.005 and 69.50.201. WSR 04-13-162, § 246-887-160, filed 6/23/04, effective 7/24/04. Statutory Authority: RCW 69.50.201 and 18.64.005(7). WSR 03-02-021, § 246-887-160, filed 12/23/02, effective 1/23/03. WSR 00-10-113, § 246-887-160, filed 5/3/00. WSR 00-01-075, § 246-887-160, filed 12/13/99. Statutory Authority: RCW 18.64.005. WSR 96-01-032, § 246-887-160, filed 12/12/95, effective 1/12/96; WSR 94-08-098, § 246-887-160, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64.005. WSR 93-14-038 (Order 376B), § 246-887-160, filed 6/29/93, effective 7/30/93; WSR 93-06-093 (Order 343B), § 246-887-160, filed 3/3/93, effective 4/3/93; WSR 92-04-029 (Order 239B), § 246-887-160, filed 1/28/92, effective 2/29/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-160, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-430, filed 8/8/89, effective 9/8/89. Statutory Authority: RCW 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.209 and 69.50.211. WSR 84-22-062 (Order 190), § 360-36-430, filed 11/7/84.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

246-887-165
Adding Xyrem to Schedule III.

The Washington state board of pharmacy finds that Xyrem, sodium oxybate, Gamma-hydroxybutyric (GHB), is approved for medical use by the Food and Drug Administration and hereby places that substance in Schedule III.

[Statutory Authority: Chapter 69.50 RCW and RCW 18.64.005. WSR 03-09-064, § 246-887-165, filed 4/15/03, effective 5/16/03.]

246-887-170
Schedule IV.

The board finds that the following substances have a low potential for abuse relative to substances in Schedule III and have currently accepted medical use in treatment in the United States and that the abuse of the substances may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. The board, therefore, places each of the following substances in Schedule IV.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule IV.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-e-dimethylamino-1,2-diphenyl-3-methyl-2 propionoxybutane).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam;
(2) Barbital;
(3) Bromazepam;
(4) Camazepam;
(5) Carisoprodol;
(6) Chloral betaine;
(7) Chloral hydrate;
(8) Chlordiazepoxide;
(9) Clobazam;
(10) Clonazepam;
(11) Clorazepate;
(12) Clotiazepam;
(13) Cloxazolam;
(14) Delorazepam;
(15) Diazepam;
(16) Estazolam;
(17) Ethchlorvynol;
(18) Ethinamate;
(19) Ethyl loflazepate;
(20) Fludiazepam;
(21) Flunitrazepam;
(22) Flurazepam;
(23) Halazepam;
(24) Haloxazolam;
(25) Ketazolam;
(26) Loprazolam;
(27) Lorazepam;
(28) Lormetazepam;
(29) Mebutamate;
(30) Medazepam;
(31) Meprobamate;
(32) Methohexital;
(33) Methylphenobarbital (mephobarbital);
(34) Midazolam;
(35) Nimetazepam;
(36) Nitrazepam;
(37) Nordiazepam;
(38) Oxazepam;

(39) Oxazolam;
(40) Paraldehyde;
(41) Petrichloral;
(42) Phenobarbital;
(43) Pinazepam;
(44) Prazepam;
(45) Quazepam;
(46) Temazepam;
(47) Tetrazepam;
(48) Triazolam;
(49) Zolpidem.

(d) Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position or geometric), and salts of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Cathine ((+) - norpseudoephedrine);
(2) Diethylpropion;
(3) Fencamfamin;
(4) Fenproporex;
(5) Mazindol;
(6) Mefenorex;
(7) Pemoline (including organometallic complexes and chelates thereof);
(8) Phentermine;
(9) Pipradrol;
(10) SPA ((-)-1-dimethylamino-1, 2-dephenylethane.

(f) Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(1) Pentazocine;
(2) Butorphanol.

[Statutory Authority: RCW 69.50.201 and 18.64.005. WSR 10-02-080, § 246-887-170, filed 1/5/10, effective 2/5/10. WSR 98-02-084 § 246-887-170, filed 1/7/98, effective 1/7/98. Statutory Authority: RCW 18.64.005. WSR 94-08-098, § 246-887-170, filed 4/6/94, effective 5/7/94; WSR 92-04-029 (Order 239B), § 246-887-170, filed 1/28/92, effective 2/29/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-170, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-440, filed 8/8/89, effective 9/8/89. Statutory Authority: RCW 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.209 and 69.50.211. WSR 84-22-062 (Order 190), § 360-36-440, filed 11/7/84.]

246-887-180
Schedule V.

PHARMACY—REGULATIONS IMPLEMENTING THE UNIFORM CONTROLLED SUBSTANCES ACT

The board finds that the following substances have low potential for abuse relative to substances in Schedule IV and have currently accepted medical use in treatment in the United States and that the substances have limited physical dependence or psychological dependence liability relative to the substance in Schedule IV. The board, therefore, places each of the following substances in Schedule V.

(a) The drugs and other substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name designated, are included in Schedule V.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth in this section, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-180, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201, 69.50.203, 69.50.205, 69.50.207, 69.50.209 and 69.50.211. WSR 84-22-062 (Order 190), § 360-36-450, filed 11/7/84.]

246-887-190
Adding buprenorphine to Schedule V.

The Washington state board of pharmacy finds that buprenorphine has a low potential for abuse relative to substances in Schedule IV; has currently accepted medical use in treatment in the United States; and the substance has limited physical dependence or psychological dependence liability relative to the substances in Schedule IV, and hereby places that substance in Schedule V.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-190, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.44.075 [69.41.075]. WSR 85-18-091 (Order 196), § 360-36-451, filed 9/4/85.]

246-887-200
Other controlled substance registrants—Requirements.

(1) All persons and firms, except persons exempt from registration, shall register with the board in order legally to possess or use controlled substances.

(2) Persons or firms which are not classified as pharmacies, wholesalers, manufacturers, or researchers shall be classified as other controlled substance registrants. Examples of persons or firms in this classification include analytical laboratories, dog handlers/trainers who use dogs for drug detection purposes, school laboratories and other agencies which have a legitimate need to use precursor chemicals as defined in WAC 246-887-150.

(3) The applicant for a controlled substance registration shall complete and return an application form supplied by the board. Either on the form or on an addendum, the applicant shall list the controlled substances to be used, the purpose for such use, and the names of the persons authorized to access the controlled substances.

(4) All controlled substances shall be stored in a substantially constructed locked cabinet. The registrant shall maintain records in sufficient detail in order to account for the receipt, use, and disposition of all controlled substances. An inventory of all controlled substances in the possession of the registrant shall be completed every two years on the anniversary of the issuances of the registration and shall be maintained for two years. Unwanted, outdated, or unusable controlled substances shall be returned to the source from which obtained or surrendered to the Federal Drug Enforcement Administration.

[Statutory Authority: Chapter 69.50 RCW and RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-887-200, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-887-200, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.50.201. WSR 89-17-023 (Order 226), § 360-36-500, filed 8/8/89, effective 9/8/89.]

246-887-210
Standards for transmission of controlled substances sample distribution reports.

These standards describe the format for transmission of data regarding distribution of controlled substance samples by manufacturers or distributors to licensed practitioners in the state of Washington.

(1) Each report shall contain the following information regarding the firm distributing controlled substance samples:

(a) Name of firm.

(b) DEA number of firm.

(c) Complete address of firm including zip code.

(d) Name and phone number of contact person.

(2) Each report shall contain the following information regarding the licensed practitioner to whom samples are distributed:

(a) First and last name of practitioner.

(b) DEA number of practitioner.

(c) Professional designation of practitioner. (E.g., MD, DO, DDS.)

(d) Complete address of practitioner including zip code.

(3) Each report shall contain the following information regarding the controlled substance(s) distributed:

(a) Name of controlled substance(s) distributed.

(b) Dosage units of controlled substance(s) distributed.

(c) Quantity distributed.

(d) Date distributed.

(4) Each report shall be submitted in alphabetical order by practitioner's last name.

(5) Each report shall be submitted quarterly.

[Statutory Authority: RCW 18.64.005. WSR 92-09-071 (Order 265B), § 246-887-210, filed 4/14/92, effective 5/15/92.]

Chapter 246-888 WAC

Last Update: 9/1/04

MEDICATION ASSISTANCE

WAC Sections

246-888-010 Purpose.
246-888-020 What is self-administration with assistance and how is it different from independent self-administration or medication administration?
246-888-030 How is self-administration with assistance initiated in a community-based care setting or an in-home setting?
246-888-045 What is an enabler?
246-888-050 How can medications be altered to assist with self-administration?
246-888-060 Can all medications be altered to facilitate self-administration?
246-888-070 What other type of assistance can a nonpractitioner provide?
246-888-080 Is oxygen covered under this rule?
246-888-090 If a individual/resident is able to administer his or her own oral medication through a gastrostomy or "g-tube," can a nonpractitioner provide assistance as outlined in these rules?
246-888-100 Are there any other requirements I need to be aware of?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-888-040 What if there is a change in the individual's situation? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-040, filed 12/17/99, effective 1/17/00.] Repealed by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005.

246-888-050 What is an enabler? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-050, filed 12/17/99, effective 1/17/00.] Decodified by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-045.

246-888-060 How can medications be altered to assist with self-administration? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-060, filed 12/17/99, effective 1/17/00.] Decodified by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-050.

246-888-070 Can all medications be altered to facilitate self-administration? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-070, filed 12/17/99, effective 1/17/00.] Decodified and amended by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-060.

246-888-080 What other type of assistance can a nonpractitioner provide? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-080, filed 12/17/99, effective 1/17/00.] Decodified by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-070.

246-888-090 Is oxygen covered under this rule? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-090, filed 12/17/99, effective 1/17/00.] Decodified by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-080.

246-888-100 If a individual/resident is able to administer his or her own oral medication through a gastrostomy or "g-tube," can a nonpractitioner provide assistance as outlined in these rules? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-100, filed

12/17/99, effective 1/17/00.] Decodified by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-090.

246-888-110 Are there any other requirements I need to be aware of? [Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-110, filed 12/17/99, effective 1/17/00.] Decodified by WSR 04-18-095, filed 9/1/04, effective 10/2/04. Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. Recodified as § 246-888-100.

246-888-010
Purpose.

The legislature recognizes that individuals residing in community-based care settings or in-home settings may need assistance self-administering their legend drugs and controlled substances, due to physical or mental limitations.

Community-based care settings include: Community residential programs for the developmentally disabled, certified by the department of social and health services under chapter 71A.12 RCW; adult family homes licensed under chapter 70.128 RCW; and boarding homes licensed under chapter 18.20 RCW. Community-based care settings do not include acute care or skilled nursing facilities.

In-home settings include: An individual's place of temporary and permanent residence, but does not include acute care or skilled nursing facilities, and does not include community-based care settings. The following rules provide guidance to the individual/resident and caregiver on medication assistance and administration.

[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, § 246-888-010, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-010, filed 12/17/99, effective 1/17/00.]

246-888-020
What is self-administration with assistance and how is it different from independent self-administration or medication administration?

Self-administration with assistance means assistance with legend drugs and controlled substances rendered by a nonpractitioner to an individual residing in a community-based care setting or an in-home care setting. It includes reminding or coaching the individual to take their medication, handing the medication container to the individual, opening the medication container, using an enabler, or placing the medication in the hand of the individual/resident. The individual/resident must be able to put the medication into his or her mouth or apply or instill the medication. The individual/resident does not necessarily need to state the name of the medication, intended effects, side effects, or other details, but must be aware that he/she is receiving medications. Assistance may be provided with prefilled insulin syringes. Assistance is limited to handing the prefilled insulin syringe to an individual/resident. Assistance with the administration of any other intravenous and/or injectable medication is specifically excluded. The individual/resident retains the right to refuse medication. Self-administration with assistance shall occur immediately prior to the ingestion or application of a medication.

MEDICATION ASSISTANCE

Independent self-administration occurs when an individual/resident is independently able to directly apply a legend drug or controlled substance by ingestion, inhalation, injection or other means. In licensed boarding homes, self-administration may include situations in which an individual cannot physically self-administer medications but can accurately direct others per WAC 388-78A-300. These regulations do not limit the rights of people with functional disabilities to self direct care according to chapter 74.39 RCW.

If an individual/resident is not able to physically ingest or apply a medication independently or with assistance, then the medication must be administered to the individual/resident by a person legally authorized to do so (e.g., physician, nurse, pharmacist). All laws and regulations applicable to medication administration apply. If an individual/resident cannot safely self-administer medication or self-administer with assistance and/or cannot indicate an awareness that he or she is taking a medication, then the medication must be administered to the individual/resident by a person legally authorized to do so.

[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, § 246-888-020, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-020, filed 12/17/99, effective 1/17/00.]

246-888-030
How is self-administration with assistance initiated in a community-based care setting or an in-home setting?

An individual/resident who resides in a community-based care setting or an in-home setting or his or her representative may request self-administration with assistance. A nonpractitioner may help in the preparation of legend drugs and controlled substances for self-administration where a practitioner has determined and communicated orally or by written direction that such medication preparation assistance is necessary and appropriate.

No additional separate assessment or documentation of the needs of the individual/resident are required in order to initiate self-administration with assistance. It is recommended that providers document their decision making process in the health record of the individual or resident health record.

[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, § 246-888-030, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-030, filed 12/17/99, effective 1/17/00.]

246-888-045
What is an enabler?

Enablers are physical devices used to facilitate an individual's/resident's self-administration of a medication. Physical devices include, but are not limited to, a medicine cup, glass, cup, spoon, bowl, prefilled syringes, syringes used to measure liquids, specially adapted table surface, straw, piece of cloth or fabric.

An individual's hand may also be an enabler. The practice of "hand-over-hand" administration is not allowed. Medication administration with assistance includes steadying or guiding an individual's hand while he or she applies or instills medications such as ointments, eye, ear and nasal preparations.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, recodified as § 246-888-045, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-050, filed 12/17/99, effective 1/17/00.]

246-888-050
How can medications be altered to assist with self-administration?

Alteration of a medication for self-administration with assistance includes, but is not limited to, crushing tablets, cutting tablets in half, opening capsules, mixing powdered medications with foods or liquids, or mixing tablets or capsules with foods or liquids. Individuals/residents must be aware that the medication is being altered or added to their food.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, recodified as § 246-888-050, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-060, filed 12/17/99, effective 1/17/00.]

246-888-060
Can all medications be altered to facilitate self-administration?

A pharmacist or other practitioner practicing within their scope of practice must determine that it is safe to alter a legend drug or controlled substance. If the medication is altered, and a practitioner has determined that such medication alteration is necessary and appropriate, the determination shall be communicated orally or by written direction. Documentation of the appropriateness of the alteration must be on the prescription container, or in the individual's/resident's record.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, amended and recodified as § 246-888-060, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-070, filed 12/17/99, effective 1/17/00.]

246-888-070
What other type of assistance can a nonpractitioner provide?

A nonpractitioner can transfer a medication from one container to another for the purpose of an individual dose. Examples include: Pouring a liquid medication from the medication container to a calibrated spoon or medication cup.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, recodified as § 246-888-070, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-080, filed 12/17/99, effective 1/17/00.]

Chapter 246-888 WAC

Last Update: 9/1/04

MEDICATION ASSISTANCE

246-888-080
Is oxygen covered under this rule?

Under state law, oxygen is not a medication and is not covered under this rule. While oxygen is not considered a medication under state law, oxygen does require an order/prescription from a practitioner.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, recodified as § 246-888-080, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-090, filed 12/17/99, effective 1/17/00.]

246-888-090
If a individual/resident is able to administer his or her own oral medication through a gastrostomy or "g-tube," can a nonpractitioner provide assistance as outlined in these rules?

If the prescription is written as an oral medication via "g-tube," and if a practitioner has determined that the medication can be altered, if necessary, for use via "g-tube," the rules as outlined for self-administration with assistance would also apply.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, recodified as § 246-888-090, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-100, filed 12/17/99, effective 1/17/00.]

246-888-100
Are there any other requirements I need to be aware of?

You should be familiar with the rules specifically regulating your residential setting. The department of social and health services has adopted rules relating to medication services in boarding homes and adult family homes.
[Statutory Authority: Chapter 69.41 RCW, RCW 18.64.005. WSR 04-18-095, recodified as § 246-888-100, filed 9/1/04, effective 10/2/04. Statutory Authority: RCW 18.64.005 and 69.41.085. WSR 00-01-123, § 246-888-110, filed 12/17/99, effective 1/17/00.]

Chapter 246-889 WAC

Last Update: 9/8/11

PHARMACEUTICAL—PRECURSOR SUBSTANCE CONTROL

WAC Sections

246-889-010 Definitions.
246-889-020 Precursor substance defined.
246-889-030 Reports of precursor receipt.
246-889-040 Monthly reporting option.
246-889-050 Suspicious transactions and reporting requirements.
246-889-070 Retail sales of nonprescription ephedrine, pseudoephedrine, and phenylpropanolamine products.
246-889-085 Requirements for the sale of restricted product.
246-889-090 Acceptable forms of photo identification.
246-889-095 Record of sales—Electronic methamphetamine precursor tracking.
246-889-110 Maintenance of and access to retail sales records of restricted products.
246-889-115 Exemptions from electronic reporting.
246-889-120 Denial of sale—Override.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-889-075 Definitions. [Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-075, filed 12/22/05, effective 1/1/06.] Repealed by WSR 11-19-018, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.165 and 18.64.005.

246-889-080 Records of sale. [Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-080, filed 12/22/05, effective 1/1/06.] Repealed by WSR 11-19-018, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.165 and 18.64.005.

246-889-100 Methods for collecting, recording, and storing records of sales data. [Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-100, filed 12/22/05, effective 1/1/06.] Repealed by WSR 11-19-018, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.165 and 18.64.005.

246-889-105 Record retention and destruction. [Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-105, filed 12/22/05, effective 1/1/06.] Repealed by WSR 11-19-018, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.165 and 18.64.005.

246-889-010
Definitions.

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

(1) "Board" means the Washington state board of pharmacy.

(2) "Electronic reporting" means detailed reporting obligations of a pharmacy, shopkeeper, or itinerant vendor to submit to the real-time methamphetamine precursor tracking system the retail purchase or attempted purchase of any nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or isomers, or salts of isomers.

(3) "Law enforcement" means any general or limited authority Washington peace officer or federal law enforcement officer.

(4) "Methamphetamine precursor tracking system" means the real-time electronic sales tracking system established by RCW 69.43.110 used to capture the retail purchase or attempted purchase of any

nonprescription products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or isomers, or salts of isomers.

(5) "Purchaser" means an individual who purchases or attempts to purchase a restricted product.

(6) "Restricted product" means any nonprescription product containing any detectable quantity of ephedrine, pseudoephedrine, and phenylpropanolamine or their salts or isomers, or salts of isomers.

(7) "Retailer" means a pharmacy licensed by, or shopkeeper or itinerant vendor registered with, the department of health under chapter 18.64 RCW that sells, dispenses, or otherwise provides restricted products to purchasers.

(8) "Sale" means the transfer, selling, or otherwise furnishing of any restricted product to any person.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-010, filed 9/8/11, effective 10/15/11.]

246-889-020
Precursor substance defined.

(1) For the purpose of this chapter a precursor substance is any of the following substances or their salts or isomers:

(a) Anthranilic acid;
(b) Barbituric acid;
(c) Chlorephedrine;
(d) Diethyl malonate;
(e) D-lysergic acid;
(f) Ephedrine;
(g) Ergotamine tartrate;
(h) Ethylamine;
(i) Ethyl malonate;
(j) Ethylephedrine;
(k) Gamma-butyrolactone (GBL);
(l) Hydriodic acid;
(m) Lead acetate;
(n) Malonic acid;
(o) Methylamine;
(p) Methylformamide;
(q) Methylephedrine;
(r) Methylpseudoephedrine;
(s) N-acetylanthranilic acid;
(t) Norpseudoephedrine;
(u) Phenylacetic acid;
(v) Phenylpropanolamine;
(w) Piperidine;
(x) Pseudoephedrine; and
(y) Pyrrolidine.

Provided; that this definition shall not include any drug that contains ephedrine, phenylpropanolamine, or pseudoephedrine or any cosmetic if that drug or cosmetic can be lawfully sold, transferred, or furnished over-the-counter without a prescription or by a prescription under chapter 69.04 or 69.41 RCW.

(2) The board finds that the reference to methylformanide in RCW 69.43.010, was intended to refer to methylformamide and corrects that reference by deleting "methylformanide" and adding "methylformamide." This change is based upon the finding that this revision conforms to the tests set forth in RCW 69.43.010(2).

(3) Registrants should be aware that precursor substances in subsection (1)(a), (f), (k), (l), (n), (o), (p), (t), and (w) of this section are also regulated as schedule II immediate precursors pursuant to WAC 246-887-150 and all applicable rules and laws governing the distribution of schedule II controlled substances must also be complied with.

[Statutory Authority: RCW 69.43.050, 18.64.005. WSR 02-18-024, § 246-889-020, filed 8/23/02, effective 9/23/02. Statutory Authority: RCW 18.65.005 and 18.64.005. WSR 94-07-105, § 246-889-020, filed 3/18/94, effective 3/18/94. Statutory Authority: RCW 69.43.050. WSR 92-12-035 (Order 277B), § 246-889-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-889-020, filed 8/30/91, effective 9/30/91. Statutory Authority: 1988 c 147 § 5. WSR 88-14-096 (Order 218), § 360-38-010, filed 7/6/88.]

246-889-030
Reports of precursor receipt.

(1) Any manufacturer, wholesaler, retailer, or any other person who receives from any source outside the state of Washington any precursor substance listed in WAC 246-889-020 shall submit a report of such transaction within fourteen days of the receipt of that substance.

(2) The report shall contain the following information:

(a) Name of substance;

(b) Quantity received;

(c) Date received;

(d) Name and address of firm or person receiving substance; and

(e) Name and address of the source selling, transferring, or furnishing the substance.

(3) The report shall be on a form approved by the board: Provided, That in lieu of an approved form the board will accept a copy of an invoice, packing list, or other shipping document which contains the information set forth in subsection (2) of this section. Under this option purchase price information appearing on the document can be deleted.

[Statutory Authority: RCW 69.43.050. WSR 92-12-035 (Order 277B), § 246-889-030, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-889-030, filed 8/30/91, effective 9/30/91. Statutory Authority: 1988 c 147 § 5. WSR 88-14-096 (Order 218), § 360-38-020, filed 7/6/88.]

246-889-040
Monthly reporting option.

(1) Permit holders who regularly transfer the same precursor substance to the same recipient can apply to the board for authorization to submit the report of said transactions on a monthly basis. Requests for monthly reporting authorization must be received at the board office at least thirty days prior to the board meeting at which the request will be considered. The board will review each request to determine if the requirements of

RCW 69.43.010(5), are met and will notify the permit holder of its decision and the reporting format that will be authorized.

(2) Permit holders may also petition the board to accept the monthly report on a computer-generated basis. The report can be furnished in hard copy, on board-approved data storage methods or by computer interface with a board-operated computer. The permit holder will be responsible for the accuracy of the report and the prompt correction of any data entry or transmission errors.

(3) The authorization to use monthly reports or computer-generated monthly reports can be rescinded at the board's discretion and with thirty days notice.

[Statutory Authority: RCW 69.43.050. WSR 92-12-035 (Order 277B), § 246-889-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-889-040, filed 8/30/91, effective 9/30/91. Statutory Authority: 1988 c 147 § 5. WSR 88-14-096 (Order 218), § 360-38-030, filed 7/6/88.]

246-889-050
Suspicious transactions and reporting requirements.

(1) A manufacturer or wholesaler who sells, transfers, or furnishes a regulated product to any licensee shall report any suspicious transaction in writing to the state board of pharmacy.

(2) For the purpose of this rule, a regulated product is defined as a product specified in RCW 69.43.010(1) or WAC 246-889-020.

(3) For the purposes of this rule, a "suspicious transaction" is defined as any sale or transfer that meets any of the following criteria:

(a) Any sale or transfer that would lead a reasonable person to believe that the substance is likely to be used for the purpose of unlawfully manufacturing a controlled substance under chapter 69.50 RCW, based on such factors as:

(i) The amount of the substance involved;

(ii) The method of payment;

(iii) The method of delivery; or

(iv) Any past dealings with any participant in the transaction.

(b) Any sale or transfer involving payment for a regulated product in cash or money orders in a total amount of more than two hundred dollars.

(c) Any sale or transfer of a regulated product that meets the criteria identifying suspicious orders in the U.S. Department of Justice, Drug Enforcement Administration, Diversion Control Program Report of the Suspicious Orders Task Force. Copies of the publication are available upon request from the board of pharmacy.

(d) Any individual sale or transfer of a regulated product that exceeds ten percent of the nonprescription drugs contained in the order. (Example: If a wholesaler sells three thousand dollars worth of products to a shopkeeper and that order contains one thousand dollars worth of nonprescription drugs, the wholesaler must submit a suspicious transaction report if the order contains over one hundred dollars worth of regulated products.)

(e) Any order which contains regulated products and has no additional nonprescription drugs is considered a suspicious transaction.

(4) For the purposes of this rule, nonprescription drugs are defined as those drugs which may be sold at retail without a prescription for the diagnosis, treatment, cure or prevention of any disease that has been approved by the FDA and bears an appropriate label. An over-the-counter (OTC) drug is the same as a nonprescription drug.

The following are examples of products sold at retail which are not defined as OTC drugs:

(a) Cosmetics;

(b) Food, dietary, and vitamin supplements;

(c) Herbs;

(d) Products that carry the statements "this product is not intended to diagnose, treat, cure or prevent any disease" or "not evaluated by FDA."

(5) The written report of a suspicious transaction shall contain, at a minimum, the following information:

(a) Name, address and phone number of the manufacturer and/or wholesaler making the report;

(b) Washington state license number of the wholesaler;

(c) Washington state Unified Business Identifier (UBI) number of the recipient of the suspicious transaction;

(d) Trade/brand name of regulated product;

(e) Generic name of regulated product's active ingredients;

(f) Name, address and phone number of the recipient of the suspicious transaction;

(g) Quantity of substance purchased, transferred, or furnished, by number of units and doses per unit;

(h) Date of purchase or transfer;

(i) Method of payment of the substance;

(j) Lot number if available; and

(k) National Drug Code Number if available.

[Statutory Authority: RCW 18.64.005 and 69.43.035. WSR 07-23-018, § 246-889-050, filed 11/9/07, effective 12/10/07. Statutory Authority: RCW 69.43.035 and 18.64.005(7). WSR 03-13-027, § 246-889-050, filed 6/10/03, effective 7/11/03.]

246-889-070
Retail sales of nonprescription ephedrine, pseudoephedrine, and phenylpropanolamine products.

Purpose.

The legislature has recognized that restricting access to ephedrine, pseudoephedrine, and phenylpropanolamine products, or their salts or isomers, or salts of isomers, is a valid method to reduce the availability of these products for the manufacture of methamphetamine. To reduce the use of these products in the manufacture of methamphetamine, while continuing access for legitimate purposes, the legislature directed the board to adopt rules to implement a statewide methamphetamine precursor tracking system for the nonprescription sales of products containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts or isomers, or salts of isomers. This chapter describes the requirements for the retail sales of restricted products.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-070, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-070, filed 12/22/05, effective 1/1/06.]

246-889-085
Requirements for the sale of restricted product.

Unless exempted in RCW 69.43.110, a retailer must:

(1) Verify the purchaser's identity by means of acceptable identification as defined in this chapter.

(2) Ensure that the purchaser is at least eighteen years of age.

(3) Record all of the information required in WAC 246-889-095 in the record of transaction before completing the sale.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-085, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-085, filed 12/22/05, effective 1/1/06.]

246-889-090
Acceptable forms of photo identification.

Acceptable forms of identification are defined as current foreign, federal, state, or tribal government-issued identification which include the person's photograph, name, date of birth, signature, and physical description. Acceptable forms of identification include, but are not limited to:

(1) A valid driver's license or instruction permit issued by any U.S. state or foreign government. If the purchaser's driver's license has expired, he or she must also show a valid temporary driver's license with the expired card.

(2) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(3) A merchant marine identification card issued by the United States Coast Guard.

(4) An identification card issued by any foreign, federal, or state government.

(5) An official U.S. passport or an unexpired foreign passport that contains a temporary I-551 stamp.

(6) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington state, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington state drivers' licenses.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-090, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-090, filed 12/22/05, effective 1/1/06.]

246-889-095
Record of sales—Electronic methamphetamine precursor tracking.

(1) Unless granted an exemption under RCW 69.43.110 upon the sale or attempted sale of a restricted product, each retailer must enter and electronically transmit the following information to the methamphetamine precursor tracking system prior to completion of the transaction:

(a) Sale transaction information including:

(i) Date and time of the intended purchase;

(ii) Product description;

(iii) Quantity of product to be sold including:

(A) Total grams of restricted product per box;

(B) Number of boxes per transaction; and

(b) Purchaser's information including:

(i) Full name as it appears on the acceptable identification;

(ii) Date of birth;

(iii) The address as it appears on the photo identification or the current address if the form of photo identification used does not contain the purchaser's address. The address information must include the house number, street, city, state, and zip code;

(iv) Form of photo identification presented by the purchaser, including the issuing agency of the acceptable identification, and the identification number appearing on the identification; and

(v) Purchaser's signature. If the retailer is not able to secure an electronic signature, the retailer shall maintain a hard copy of a signature logbook consisting of each purchaser's signature and the transaction number provided by the methamphetamine precursor tracking system.

(c) The full name or initials of the individual conducting the transaction.

(d) Other information as required by the methamphetamine precursor tracking system data base.

(2) If a transaction occurs during a time when the methamphetamine precursor tracking system is temporarily unavailable due to power outage or other technical difficulties, the retailer shall record the information required in this section in a written logbook for entry into the methamphetamine precursor tracking system within seventy-two hours of the system becoming operational.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-095, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-095, filed 12/22/05, effective 1/1/06.]

246-889-110
Maintenance of and access to retail sales records of restricted products.

(1) The retail sales records required under WAC 246-889-095 are confidential and accessible by the board of pharmacy and law enforcement agencies. Law enforcement may access the retail sales records for criminal investigations when, at a minimum, there is an articulated individualized suspicion of criminal activity.

(2) Each law enforcement agency's administrator, chief, sheriff, or other chief executive officer shall ensure:

(a) Only authorized employees have access to the data bases;

(b) Each employee use his or her unique password or access code to access the data bases;

(c) Each employee adheres to all state and federal laws regarding confidentiality; and

(d) As employees change, new passwords or access codes are assigned to new employees and passwords of ex-employees or transferred employees are removed.

(3) Retail sales records of restricted products, electronic or written, must be kept for a minimum of two years.

(4) Retail sales records must be destroyed in a manner that leaves the record unidentifiable and nonretrievable.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-110, filed 9/8/11, effective 10/15/11. Statutory Authority: RCW 69.43.170, 18.64.005. WSR 06-02-010, § 246-889-110, filed 12/22/05, effective 1/1/06.]

246-889-115
Exemptions from electronic reporting.

(1) Pharmacies are exempt from entering purchase information into the methamphetamine precursor tracking system when the sale of products containing ephedrine, pseudoephedrine, or phenylpropanolamine or their salts or isomers, or salts of isomers is sold pursuant to a prescription written by an authorized practitioner.

(2) A retailer must demonstrate "good cause" to qualify for an exemption from electronic reporting requirements. "Good cause" includes, but is not limited to, situations where the installation of the necessary equipment to access the methamphetamine precursor tracking system is unavailable or cost prohibitive to the retailer.

(a) A retailer must submit a written request on a form provided by the board, which shall include the following information:

(i) The reason for the exemption; and

(ii) The anticipated duration needed for the exemption.

(b) An exemption from electronic reporting may not exceed one hundred eighty days.

(c) A retailer may request additional exemptions by submitting a form defined in this subsection at least thirty days before the current exemption expires. The retailer must show that compliance will cause the business significant hardship.

(d) For all sales transactions involving the sale or attempted sale of a restricted product occurring during the period of an exemption, the retailer shall record into a written logbook, at the time of the sale or attempted sale, the information required under WAC 246-889-095(1).

(e) The written logbook of each sale or attempted sale shall be available for inspection by any law enforcement officer or board inspector during normal business hours.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-115, filed 9/8/11, effective 10/15/11.]

246-889-120
Denial of sale—Override.

(1) The retailer must deny the sale of restricted product to purchasers who are not able to produce acceptable identification or if the sale would violate RCW 69.43.110 or federal law.

(2) In the event that the retailer perceives that refusal of the purchase may place him or her in imminent physical harm, the retailer may use the data base safety override function to proceed with the sale, provided that when the threat is no longer perceived, the retailer must immediately contact local law enforcement to report the incident.

[Statutory Authority: RCW 69.43.165 and 18.64.005. WSR 11-19-018, § 246-889-120, filed 9/8/11, effective 10/15/11.]

Chapter 246-891 WAC

Last Update: 3/27/95

PHARMACY—PROPHYLACTICS

WAC Sections

246-891-010 Definitions.
246-891-020 Conditions for the sale of condoms.
246-891-030 Condom standards.

246-891-010
Definitions.

(1) The following definitions shall be applicable to these rules.

(1) "Board" shall mean the Washington state board of pharmacy;

(2) "Condom" shall mean a prophylactic consisting of a very thin sheath designed to be placed over the penis to prevent conception or venereal disease during coitus, and is commonly made of rubber, parchment skins, plastic or similar materials;

(3) "Prophylactic" shall mean any device or medical preparation or compound which is or may be used, designed, intended or which has or may have special utility, for the prevention and/or treatment of venereal diseases;

(4) "Sell" and "sale" shall, in addition to their usual and ordinary meanings, include possession in violation of the intent of this chapter, exchange, give away or gift, or any disposal.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-891-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.040.730 [69.04.730]. WSR 85-06-010 (Order 193), § 360-40-010, filed 2/22/85. Statutory Authority: RCW 18.64.005, 18.81.080 and 42.17.290. WSR 83-01-083 (Order 171), § 360-40-010, filed 12/17/82; Order 108, § 360-40-010, filed 10/26/71.]

246-891-020
Conditions for the sale of condoms.

Condoms sold in this state must meet the following conditions:

(1) All condoms shall be individually sealed in plastic, foil or a comparable type seal to protect the product from deterioration due to exposure to air.

(2) The container in which the condom is sold to the purchaser shall bear the date of manufacture or shall bear an expiration date not more than five years after the date of manufacture. Condoms may not be sold in this state five years after the date of manufacture. Condoms bearing an expiration date may not be sold in this state after their expiration date. Condoms not bearing an expiration date may not be sold in this state more than five years after the date of manufacture.

(3) All consumer packages containing one or more individually wrapped condoms shall contain easily understood directions for use.

[Statutory Authority: RCW 18.64.005. WSR 95-08-020, § 246-891-020, filed 3/27/95, effective 4/27/95. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-891-020,

filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-20-038 (Order 219), § 360-40-040, filed 9/30/88. Statutory Authority: RCW 18.64.005 and 69.040.730 [69.04.730]. WSR 85-06-010 (Order 193), § 360-40-040, filed 2/22/85. Statutory Authority: RCW 18.64.005, 18.81.080 and 42.17.290. WSR 83-01-083 (Order 171), § 360-40-040, filed 12/17/82.]

246-891-030
Condom standards.

All condoms shall meet the following standards:

(1) Latex rubber condoms shall comply with applicable United States Food and Drug Administration requirements current at the time of manufacture.

(2) Condoms made from materials other than rubber shall conform to applicable United States Food and Drug Administration requirements current at the time of manufacture.

[Statutory Authority: RCW 18.64.005. WSR 95-08-020, § 246-891-030, filed 3/27/95, effective 4/27/95. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-891-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005 and 69.040.730 [69.04.730]. WSR 85-06-010 (Order 193), § 360-40-070, filed 2/22/85. Statutory Authority: RCW 18.64.005, 18.81.080 and 42.17.290. WSR 83-01-083 (Order 171), § 360-40-070, filed 12/17/82.]

Chapter 246-895 WAC

Last Update: 5/28/92

PHARMACY—GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

WAC Sections

246-895-010	Definitions.
246-895-020	Finished pharmaceuticals—Manufacturing practice.
246-895-030	Personnel.
246-895-040	Buildings or facilities.
246-895-050	Equipment.
246-895-060	Production and control procedures.
246-895-070	Components.
246-895-080	Component and drug product containers and closures.
246-895-090	Reuse of teat dip containers and closures.
246-895-100	Laboratory controls.
246-895-110	Stability.
246-895-120	Expiration dating.
246-895-130	Packaging and labeling.
246-895-140	Master production and control records—Batch production and control records.
246-895-150	Distribution records.
246-895-160	Complaint files.
246-895-170	Variance and procedure.

246-895-010
Definitions.

(1) As used in these regulations, "act" means the Uniform Food, Drug and Cosmetic Act, chapter 69.04 RCW.

(2) The definitions and interpretations contained in the act shall be applicable to such terms used in these regulations.

(3) As used in these regulations:

(a) The term "component" means any ingredient intended for use in the manufacture of a drug product, including those that may not appear in the finished product.

(b) The term "drug product" means a finished dosage form (e.g., tablet, capsule, solution) that contains an active drug ingredient generally, but not necessarily, in association with inactive ingredients. The term also includes a finished dosage form that does not contain an active ingredient but is intended to be used as a placebo.

(c) The term "active ingredient" means any component that is intended to furnish pharmacological activity or other direct effect in the diagnosis, cure, mitigation, treatment, or prevention of disease, or to affect the structure or any function of the body of humans or other animals. The term includes those components that may undergo chemical change in the manufacture of the drug product and be present in that drug product in a modified form intended to furnish the specified activity or effect.

(d) The term "inactive ingredient" means any component other than an "active ingredient" present in a drug product.

(e) The term "batch" means a specific quantity of a drug or other material that has uniform character and quality, within specified limits, and is produced according to a single manufacturing order during the same cycle of manufacture.

(f) The term "lot" means a batch or a specific identified portion of a batch having uniform character and quality within specified limits; or, in the case of a drug product produced by continuous process, it is a specific identified amount produced in a unit of time or quantity in a manner that assures its having uniform character and quality within specified limits.

(g) The terms "lot number," "control number," or "batch number" mean any distinctive combination of letters, numbers, or symbols, or any combination of them, from which the complete history of the manufacture, processing, packing, holding, and distribution of a batch or lot of drug product or other material can be determined.

(h) The term "quality control unit" means any person or organizational element having the authority and responsibility to approve or reject components, in-process materials, packaging components, and final products.

(i) The term "strength" means:

(i) The concentration of the drug product (for example, w/w, w/v, or unit dose/volume basis); and/or

(ii) The potency, that is, the therapeutic activity of the drug product as indicated by appropriate laboratory tests or by adequately developed and controlled clinical data (expressed, for example, in terms of units by reference to a standard).

(j) The term "fiber" means any particulate contaminant with a length at least three times greater than its width.

(k) The term "nonfiber-releasing filter" means any filter, which after any appropriate pretreatment such as washing or flushing, will not release fibers into the component or drug product that is being filtered. All filters composed of asbestos are deemed to be fiber-releasing filters.

(l) The term "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, prepares, compounds, packages or labels such substance or device.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-010, filed 10/10/88; Order 133, § 360-46-010, filed 8/4/77.]

246-895-020
Finished pharmaceuticals—Manufacturing practice.

(1) The criteria in WAC 246-895-040 through 246-895-160, inclusive, shall apply in determining whether the methods used in, or the facilities or controls used for, the manufacture, processing, packing, or holding of a drug conform to or are operated or administered in conformity with current good manufacturing practice to assure that a drug meets the requirements of the act as to safety and has the identity and strength and meets the quality and purity characteristics which it purports or is represented to possess as required by the act.

(2) The regulations in this chapter permit the use of precision automatic, mechanical, or electronic equipment in the production and control of drugs when written inspection and checking policies and procedures are used to assure proper performance.
[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-020, filed 10/10/88; Order 133, § 360-46-020, filed 8/4/77.]

246-895-030
Personnel.

(1) The personnel responsible for directing the manufacture and control of the drug shall be adequate in number and background of education, training, and experience, or combination thereof, to assure that the drug has the safety, identity, strength, quality, and purity that it purports to possess. All personnel shall have capabilities commensurate with their assigned functions, a thorough understanding of the manufacturing or control operations they perform, the necessary training or experience, and adequate information concerning the reason for application of pertinent provisions of this part to their respective functions.

(2) Any person shown at any time (either by medical examination or supervisory observation) to have an apparent illness or open lesions that may adversely affect the safety or quality of drugs shall be excluded from direct contact with components, drug product containers, closures, in-process materials, and drug products until the condition is corrected or determined by competent medical personnel not to jeopardize the safety or quality of drug products. All employees shall be instructed to report to supervisory personnel any conditions that may have such an adverse effect on drug products.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-030, filed 10/10/88; Order 133, § 360-46-030, filed 8/4/77.]

246-895-040
Buildings or facilities.

Buildings shall be maintained in a clean and orderly manner and shall be of suitable size, construction, and location to facilitate adequate cleaning, maintenance, and proper operations in the manufacturing, processing, packing, repacking, labeling, or holding of a drug. The buildings shall:

(1) Provide adequate space for:

(a) Orderly placement of equipment and materials to minimize any risk of mixups between different drugs, drug components, drug products, in-process materials, packaging materials, or labeling, and to minimize the possibility of contamination.

(b) The receipt, storage, and withholding from use of components pending sampling, identification, and testing prior to release by the quality control unit for manufacturing or packaging.

(c) The holding of rejected components prior to disposition to preclude the possibility of their use in manufacturing or packaging procedures for which they are unsuitable.

(d) The storage of components, containers, packaging materials, and labeling.

(e) Any manufacturing and processing operations performed.

(f) Any packaging or labeling operations.

(g) Storage of finished products.

(h) Control and production-laboratory operations.

(2) Provide adequate lighting, ventilation, and screening and, when necessary for the intended production or control purposes, provide facilities for adequate air-pressure, microbiological, dust humidity, and temperature controls to:

(a) Minimize contamination of products by extraneous adulterants, including cross-contamination of one product by dust or particles of ingredients arising from the manufacture, storage, or handling of another product.

(b) Minimize dissemination of micro-organisms from one area to another.

(c) Provide suitable storage conditions for drug components, in-process materials, and finished drugs in conformance with stability information as derived under WAC 246-895-110.

(3) Provide adequate locker facilities and hot and cold water washing facilities, including soap or detergent, air drier or single service towels, and clean toilet facilities near working areas.

(4) Provide an adequate supply of potable water under continuous positive pressure in a plumbing system free of defects that could cause or contribute to contamination of any drug. Drains shall be of adequate size and, where connected directly to a sewer, shall be equipped with traps to prevent back-siphonage.

(5) Provide suitable housing and space for the care of all laboratory animals.

(6) Provide for safe and sanitary disposal of sewage, trash, and other refuse within and from the buildings and immediate premises.

(7) Be maintained in a clean, orderly, and sanitary condition. There shall be written procedures assigning responsibility for sanitation and describing the cleaning schedule and methods.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-040, filed 10/10/88; Order 133, § 360-46-040, filed 8/4/77.]

246-895-050
Equipment.

Equipment used for the manufacture, processing, packing, labeling, holding, testing, or control of drugs shall be maintained in a clean and orderly manner and shall be of suitable design, size, construction, and location to facilitate cleaning, maintenance, and operation for its intended purpose. The equipment shall:

(1) Be so constructed that all surfaces that come into contact with a drug component, in-process material, or drug product shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quality, or purity of the drug product beyond the official or other established requirements.

(2) Be so constructed that any substances required for operation of the equipment, such as lubricants or coolants, do not contact drug products so as to alter the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.

(3) Be constructed and installed to facilitate adjustment, disassembly cleaning and maintenance to assure the reliability of control procedures, uniformity of production and exclusion from the drugs of contaminants from previous and current operations that might affect the safety, identity, strength, quality, or purity of the drug or its components beyond the official or other established requirements.

(4) Be of suitable type, size and accuracy for any testing, measuring, mixing, weighing, or other processing or storage operations.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-050, filed 10/10/88; Order 133, § 360-46-050, filed 8/4/77.]

246-895-060
Production and control procedures.

Production and control procedures shall include all reasonable precautions, including the following, to assure that the drugs produced have the safety, identity, strength, quality, and purity they purport to possess:

(1) Each significant step in the process, such as the selection, weighing, and measuring of components, the addition of ingredients during the process, weighing and measuring during various stages of the processing, and the determination of the finished yield, shall be performed by a competent and responsible individual and checked by a second competent and responsible individual; or if such steps in the processing are controlled by precision automatic, mechanical, or electronic equipment, their proper performance is adequately checked by one or more competent individuals. The written record of the significant steps in the process shall be identified by the individual performing these tests and by the individual charged with checking these steps. Such identifications shall be recorded immediately following the completion of such steps.

(2) All containers, lines, and equipment used during the production of a batch of a drug shall be properly identified at all times to accurately and completely indicate their contents, including batch number, and, when necessary, the stage of processing of the batch.

(3) To minimize contamination and prevent mixups, equipment, utensils, and containers shall be thoroughly and appropriately cleaned and properly stored and have previous batch identification removed or obliterated between batches or at suitable intervals in continuous production operations.

(4) Appropriate written procedures, designed to prevent objectionable microorganisms in drug products not requiring to be sterile, shall be established and followed.

(5) Appropriate written procedures, designed to prevent microbiological contamination of drug products purporting to be sterile, shall be established and followed. Such procedures shall include validation of any sterilization process.

(6) Appropriate procedures shall be established to minimize the hazard of cross-contamination of any drugs while being manufactured or stored.

(7) To assure the uniformity and integrity of products, there shall be adequate in-process controls, such as checking the weights and disintegration times of tablets, the adequacy of mixing, the homogeneity of suspensions, and the clarity of solutions. In-process sampling shall be done at appropriate intervals using suitable equipment.

(8) Representative samples of all dosage form drugs shall be tested to determine their conformance with the specifications for the product before distribution.

(9) Procedures shall be instituted whereby review and approval of all production and control records, including packaging and labeling, shall be made prior to the release or distribution of a batch. A thorough investigation of any unexplained discrepancy or the failure of a batch to meet any of its specifications shall be undertaken whether or not the batch has already been distributed. This investigation shall be undertaken by a competent and responsible individual and shall extend to other batches of the same drug and other drugs that may have been associated with the specific failure. A written record of the investigation shall be made and shall include the conclusions and followup.

(10) Returned goods shall be identified as such and held. If the conditions under which returned goods have been held, stored, or shipped prior to or during their return, or the condition of the product, its container, carton, or labeling as a result of storage or shipping, cast doubt on the safety, identity, strength, quality, or purity of the drug product, the returned goods shall be destroyed or subjected to adequate examination or testing to assure that the material meets all appropriate standards or specifications before being returned to stock for warehouse distribution or repacking. If the product is neither destroyed nor returned to stock, it may be reprocessed provided the final product meets all its standards and specifications. Records of returned goods shall be maintained and shall indicate the quantity returned, date, and actual disposition of the product. If the reason for returned goods implicates associated batches, an appropriate investigation shall be made in accordance with the requirements of subsection (9) of this section.

(11) Filters used in the manufacture, processing, or packaging of components of drug products for parenteral injection in humans shall not release fibers into such products. No asbestos-containing or other fiber-releasing filter may be used in the manufacture, processing, or packaging of such products. Filtration, as needed, shall be through a non-fiber-releasing filter.

(12) Appropriate procedures shall be established to destroy beyond recognition and retrievability any and all components or drug products that are to be discarded or destroyed for any reason.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-060, filed 10/10/88; Order 133, § 360-46-060, filed 8/4/77.]

246-895-070
Components.

All components and other materials used in the manufacture, processing, and packaging of drug products, and materials necessary for building and equipment maintenance, upon receipt shall be stored and handled in a safe, sanitary, and orderly manner. Adequate measures shall be taken to prevent mixups and cross-contamination affecting drugs and drug products. Components shall be withheld from use until they have been identified, sampled, and tested for conformance with established specifications and are released by a quality control unit. Control of components shall include the following:

(1) Each container of component shall be examined visually for damage or contamination prior to use, including examination for breakage of seals when indicated.

(2) An adequate number of samples shall be taken from a representative number of component containers from each lot and shall be subjected to one or more tests to establish the specific identity.

(3) Sample containers shall be identified so that the following information can be determined: Name of the material sampled, the lot number, the container from which the sample was taken, and the name of the person who collected the sample.

(4) Containers from which samples have been taken shall be marked to show that samples have been removed from them.

(5) Representative samples of components liable to contamination with filth, insect infestation, or other extraneous contaminants shall be appropriately examined.

(6) Representative samples of all components intended for use as active ingredients shall be tested to determine their strength in order to assure conformance with appropriate specifications.

(7) Representative samples of components liable to microbiological contamination shall be subjected to microbiological tests prior to use. Such components shall not contain microorganisms that are objectionable in view of their intended use.

(8) Approved components shall be appropriately identified and retested as necessary to assure that they conform to appropriate specifications of identity, strength, quality, and purity at time of use. This requires the following:

(a) Approved components shall be handled and stored to guard against contaminating or being contaminated by other drugs or components.

(b) Approved components shall be rotated in such a manner that the oldest stock is used first.

(c) Rejected components shall be identified and held to preclude their use in manufacturing or processing procedures for which they are unsuitable.

(9) Appropriate records shall be maintained, including the following:

(a) The identity and quantity of the component, the name of the supplier, the supplier's lot number, and the date of receipt.

(b) Examinations and tests performed and rejected components and their disposition.

(c) An individual inventory and record for each component used in each batch of drug manufactured or processed.

(10) An appropriately identified reserve sample of all active ingredients consisting of at least twice the quantity necessary for all required tests, except those for sterility and determination of the presence of pyrogens, shall be retained for at least two years after distribution of the last drug lot incorporating the component has been completed or one year after the expiration date of this last drug lot, whichever is longer. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-070, filed 10/10/88; Order 133, § 360-46-070, filed 8/4/77.]

246-895-080
Component and drug product containers and closures.

(1) Component and drug product containers and closures shall:

(a) Not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quantity, or purity of the product or its components beyond the official or established requirements;

(b) Provide adequate protection against foreseeable external factors in storage and use that can cause deterioration or contamination of the drug product; and

(c) Be clean and, where indicated by the nature of the drug, sterilized and processed to remove pyrogenic properties to assure that they are suitable for their intended use.

Containers and their components for parenterals shall be cleansed with water which has been filtered through a nonfiber-releasing filter.

(2) Standards or specifications, methods of testing, and, where indicated, processing to remove pyrogenic properties shall be written and followed for component and drug product containers and closures.

(3) Except as provided for in WAC 246-895-090, drug product containers and closures shall not be reused for component or drug product packaging.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-080, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-080, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 88-01-025 (Order 208), § 360-46-081, filed 12/9/87.]

246-895-090
Reuse of teat dip containers and closures.

The reuse of teat dip containers and closures shall be allowed under the following circumstances:

(1) Teat dip containers for reuse must have attached a labelling panel bearing product name, brand name and distributor address if marketed by other than the manufacturer, manufacturer name and address, product strength, quantity, expiration date, directions for use, and appropriate cautionary statements for the product contained within.

(2) All reusable teat dip containers will be hot stamped for permanent identification as teat dip containers. The hot stamp shall imprint on the plastic container, in an immutable manner, the words "teat dip only" and the manufacturer's name. Teat dip manufacturers may only refill containers bearing their company name.

(3) With cooperation from dairy producers, dairy sanitarians will take random samples of teat dip in reusable containers while on regular farm inspections. The samples, along with appropriate label information, will be forwarded to the board of pharmacy for analysis to insure that the product meets label specifications and is free of contamination.

(4) Reusable teat dip containers shall not be reactive, additive, or absorptive so as to alter the safety, identity, strength, quantity, or purity of the product.

(5) Upon return to the manufacturer, reusable teat dip containers shall be cleaned and sanitized. To insure adequate cleaning occurs, the board of pharmacy may require a manufacturer to submit and have approved a cleaning procedure. Containers showing structural damage, or any signs of being used for substances or materials other than teat dip shall not be reused as teat dip containers.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-090, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(11). WSR 88-01-025 (Order 208), § 360-46-082, filed 12/9/87.]

PHARMACY—GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

246-895-100
Laboratory controls.

Laboratory controls shall include the establishment of scientifically sound and appropriate written specifications, standards, and test procedures to assure that components, in-processed drugs, and finished products conform to appropriate standards of identity, strength, quality and purity. Laboratory controls shall include:

(1) The establishment of master records containing appropriate specifications for the acceptance of each lot of drug components, product containers, and their components used in drug production and packaging and a description of the sampling and testing procedures used for them. Said samples shall be representative and adequately identified. Such records shall also provide for appropriate retesting of drug components, product containers, and their components subject to deterioration.

(2) A reserve sample of all active ingredients as required by WAC 246-895-070.

(3) The establishment of master records, when needed, containing specifications and a description of sampling and testing procedures for in-process drug preparations. Such samples shall be adequately representative and properly identified.

(4) The establishment of master records containing a description of sampling procedures and appropriate specifications for finished drug products. Such samples shall be adequately representative and properly identified.

(5) Adequate provisions for checking the identity and strength of drug products for all active ingredients and for assuring:

(a) Sterility of drugs purported to be sterile and freedom from objectionable microorganisms for those drugs which should be so by virtue of their intended use.

(b) The absence of pyrogens for those drugs purporting to be pyrogen-free.

(c) Minimal contamination of ophthalmic ointments by foreign particles and harsh or abrasive substances.

(d) That the drug release pattern of sustained release products is tested by laboratory methods to assure conformance to the release specifications.

(6) Adequate provision for auditing the reliability, accuracy, precision, and performance of laboratory test procedures and laboratory instruments used.

(7) A properly identified reserve sample of the finished product (stored in the same immediate container-closure system in which the drug is marketed) consisting of at least twice the quantity necessary to perform all the required tests, except those for sterility and determination of the absence of pyrogens, and stored under conditions consistent with product labeling shall be retained for at least two years after the drug distribution has been completed or one year after the drug's expiration date, whichever is longer.

(8) Provision for retaining complete records of all laboratory data relating to each batch or lot of drug to which they apply. Such records shall be retained for at least two years after distribution has been completed or one year after the drug's expiration date, whichever is longer.

(9) Provision that animals shall be maintained and controlled in a manner that assures suitability for their intended use. They shall be identified and appropriate records maintained to determine the history of use.

(10) Provision that firms which manufacture nonpenicillin products (including certifiable antibiotic products) on the same premises or use the same equipment as that used for manufacturing penicillin products,

or that operate under any circumstances that may reasonably be regarded as conducive to contamination of other drugs by penicillin, shall test such nonpenicillin products to determine whether any have become cross-contaminated by penicillin. Such products shall not be marketed if intended for use in humans and the product is contaminated with an amount of penicillin equivalent to 0.5 unit or more of penicillin G per maximum single dose recommended in the labeling of a drug intended for parenteral administration, or an amount of penicillin equivalent to 0.5 unit or more of penicillin G per maximum single dose recommended in the labeling of a drug intended for oral use.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-100, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-090, filed 10/10/88; Order 133, § 360-46-090, filed 8/4/77.]

246-895-110
Stability.

There shall be written procedures for assurance of the stability of finished drug products. This stability shall be:

(1) Determined by reliable, meaningful, and specific test methods.

(2) Determined on products in the same container-closure system in which they are marketed.

(3) Determined on any dry drug product that is to be reconstituted at the time of dispensing (as directed in its labeling), as well as on the reconstituted product.

(4) Recorded and maintained in such manner that the stability data may be utilized in establishing product expiration dates.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-110, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-100, filed 10/10/88; Order 133, § 360-46-100, filed 8/4/77.]

246-895-120
Expiration dating.

To assure that drug products liable to deterioration meet appropriate standards of identity, strength, quality, and purity at the time of use, the label of all such drugs shall have suitable expiration dates which relate to stability tests performed on the product.

(1) Expiration dates appearing on the drug labeling shall be justified by readily available data from stability studies such as described in WAC 246-895-110.

(2) Expiration dates shall be related to appropriate storage conditions stated on the labeling wherever the expiration date appears.

(3) When the drug is marketed in the dry state for use in preparing a liquid product, the labeling shall bear expiration information for the reconstituted product as well as an expiration date for the dry product.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-120, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-120, filed 8/30/91, effective 9/30/91; Order 133, § 360-46-110, filed 8/4/77.]

PHARMACY—GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS

246-895-130
Packaging and labeling.

Packaging and labeling operations shall be adequately controlled: To assure that only those drug products that have met the standards and specifications established in their master production and control records shall be distributed; to prevent mixups between drugs during filling, packaging, and labeling operations; to assure that correct labels and labeling are employed for the drug; and to identify the finished product with a lot or control number that permits determination of the history of the manufacture and control of the batch. An hour, day, or shift code is appropriate as a lot or control number for drug products manufactured or processed in continuous production equipment. Packaging and labeling operations shall:

(1) Be separated (physically or spatially) from operations on other drugs in a manner adequate to avoid mixups and minimize cross-contamination. Two or more packaging or labeling operations having drugs, containers, or labeling similar in appearance shall not be in process simultaneously on adjacent or nearby lines unless these operations are separated either physically or spatially.

(2) Provide for an inspection of the facilities prior to use to assure that all drugs and previously used packaging and labeling materials have been removed.

(3) Include the following labeling controls:

(a) The holding of labels and package labeling upon receipt pending review and proofing against an approved final copy by a competent and responsible individual to assure that they are accurate regarding identity, content, and conformity with the approved copy before release to inventory.

(b) The maintenance and storage of each type of label and package labeling representing different products, strength, dosage forms, or quantity of contents in such a manner as to prevent mixups and provide proper identification.

(c) A suitable system for assuring that only current labels and package labeling are retained and that stocks of obsolete labels and package labeling are destroyed.

(d) Restriction of access to labels and package labeling to authorized personnel.

(e) Avoidance of gang printing of cut labels, cartons, or inserts when the labels, cartons, or inserts are for different products or different strengths of the same products or are of the same size and have identical or similar format and/or color schemes. If gang printing is employed, packaging and labeling operations shall provide for added control procedures. These added controls should consider sheet layout, stacking, cutting, and handling during and after printing.

(4) Provide strict control of the package labeling issued for use with the drug. Such issue shall be carefully checked by a competent and responsible person for identity and conformity to the labeling specified in the batch production record. Said record shall identify the labeling and the quantities issued and used and shall reasonably reconcile any discrepancy between the quantity of drug finished and the quantities of labeling issued. All excess package labeling bearing lot or control numbers shall be destroyed. In event of any significant unexplained discrepancy, an investigation should be carried out according to WAC 246-895-060(9).

(5) Provide for adequate examination or laboratory testing of representative samples of finished products after packaging and labeling to safeguard against any errors in the finishing operations and to prevent distribution of any batch until all specified tests have been met.

(6) Provide for compliance with the Poison Prevention Packaging Act, (16 C.F.R. Part 1700).

(7) Provide for compliance with WAC 246-895-080(2).

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-130, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-130, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-120, filed 10/10/88; Order 133, § 360-46-120, filed 8/4/77.]

246-895-140
Master production and control records—Batch production and control records.

(1) To assure uniformity from batch to batch, a master production and control record for each drug product and each batch size of drug product shall be prepared, dated, and signed or initialed by a competent and responsible individual and shall be independently checked, reconciled, dated, and signed or initialed by a second competent and responsible individual. The master production and control record shall include:

(a) The name of the product, description of the dosage form, and a specimen or copy of each label and all other labeling associated with the retail or bulk unit, including copies of such labeling signed or initialed and dated by the person or persons responsible for approval of such labeling.

(b) The name and weight or measure of each active ingredient per dosage unit or per unit of weight or measure of the finished drug and a statement of the total weight or measure of any dosage unit.

(c) A complete list of ingredients designated by names or codes sufficiently specific to indicate any special quality characteristic; and accurate statement of the weight or measure of each ingredient regardless of whether it appears in the finished product, except that reasonable variations may be permitted in the amount of components necessary in the preparation in dosage form provided that provisions for such variations are included in the master production and control record; an appropriate statement concerning any calculated excess of an ingredient; an appropriate statement of theoretical weight or measure at various stages of processing; and a statement of the theoretical yield.

(d) A description of the containers, closures, and packaging and finishing materials.

(e) Manufacturing and control instructions, procedures, specifications special notations, and precautions to be followed.

(2) The batch production and control record shall be prepared for each batch of drug produced and shall include complete information relating to the production and control of each batch. These records shall be retained for at least two years after the batch distribution is complete or at least one year after the batch expiration date, whichever is longer. These records shall identify the specific labeling and lot or control numbers used on the batch and shall be readily available during such retention period. The batch record shall include:

(a) An accurate reproduction of the appropriate master formula record checked, dated, and signed or initialed by a competent and responsible individual.

(b) A record of each significant step in the manufacturing, processing, packaging, labeling testing, and controlling of the batch, including: Dates; individual major equipment and lines employed; specific identification of each batch of components used; weights and measures of components and products used in the course of processing; in-process and laboratory control results; and identifications of the individual(s)

actively performing and the individual(s) directly supervising or checking each significant step in the operation.

(c) A batch number that identifies all the production and control documents relating to the history of the batch and all lot or control numbers associated with the batch.

(d) A record of any investigation made according to WAC 246-895-060(9).

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-140, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-140, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-130, filed 10/10/88; Order 133, § 360-46-130, filed 8/4/77.]

246-895-150
Distribution records.

(1) Finished goods warehouse control and distribution procedures shall include a system by which the distribution of each lot of drug can be readily determined to facilitate its recall if necessary. Records within the system shall contain the name and address of the consignee, date and quantity shipped, and lot or control number of the drug. Records shall be retained for at least two years after the distribution of the drug has been completed or one year after the expiration date of the drug, whichever is longer.

(2) To assure the quality of the product, finished goods warehouse control shall also include a system whereby the oldest approved stock is distributed whenever possible.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-150, filed 8/30/91, effective 9/30/91; Order 133, § 360-46-140, filed 8/4/77.]

246-895-160
Complaint files.

Records shall be maintained of all written and oral complaints regarding each product. An investigation of each complaint shall be made in accordance with WAC 246-895-060(8). The record of each investigation shall be maintained for at least two years after distribution of the drug has been completed or one year after the expiration date of the drug, whichever is longer.

[Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-160, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-160, filed 8/30/91, effective 9/30/91; Order 133, § 360-46-150, filed 8/4/77.]

246-895-170
Variance and procedure.

Licensees may request that the board issue a variance from specific requirements of WAC 246-895-040 through 246-895-160. The request must be in writing and must explain why the criteria should not apply and how the public's safety would be protected. Issuance of a variance shall be based on the information supplied by the manufacturer requesting the variance, as well as any other information available as a result of any investigation by the board and/or any other relevant information available. After due consideration of all the information, the board may issue or deny the requested variance. Any variance granted shall be limited to the particular case described in the request and shall be posted at the manufacturing location during the time it is in effect. Variances will be reviewed at least every three years. Variances shall be subject to withdrawal or modification at any time if the board finds the variance has resulted in actual or potential harm to the public. [Statutory Authority: RCW 18.64.005. WSR 92-12-035 (Order 277B), § 246-895-170, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-895-170, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-21-025 (Order 220), § 360-46-160, filed 10/10/88.]

Chapter 246-897 WAC

Last Update: 10/1/97

PHARMACY—DRUG AVAILABILITY

WAC Sections

AMYGDALIN (LAETRILE)

246-897-020 Availability.

246-897-060 Identity.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-897-030 License. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-030, filed 8/30/91, effective 9/30/91; Order 135, § 360-47-020, filed 10/5/77.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-040 License application. [Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 92-12-035 (Order 277B), § 246-897-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-040, filed 8/30/91, effective 9/30/91; Order 135, § 360-47-030, filed 10/5/77.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-050 Good manufacturing practices. [Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 92-12-035 (Order 277B), § 246-897-050, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-050, filed 8/30/91, effective 9/30/91; Order 135, § 360-47-040, filed 10/5/77.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-120 Availability. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-120, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-010, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-130 License. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-130, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-020, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-140 License application. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-140, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-030, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-150 Good manufacturing practices. [Statutory Authority: RCW 18.64.005 and 69.41.075. WSR 92-12-035 (Order 277B), § 246-897-150, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-150, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-040, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-160 Purity. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057

	(Order 191B), recodified as § 246-897-160, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-050, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.
246-897-170	Contents. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-170, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-060, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.
246-897-180	Labeling. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-180, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-070, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.
246-897-190	Other forms of DMSO. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-190, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.075 and 1981 c 50 § 1. WSR 81-22-048 (Order 164), § 360-48-080, filed 11/2/81.] Repealed by WSR 97-20-168, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 18.64.005.

246-897-020
Availability.

Amygdalin (laetrile) shall be available in intrastate commerce to the citizens of the state of Washington in accordance with all applicable state laws and regulations. Amygdalin (laetrile) imported into the state of Washington shall be so imported in conformity with federal regulations and/or court decisions.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-020, filed 8/30/91, effective 9/30/91; Order 135, § 360-47-010, filed 10/5/77.]

246-897-060
Identity.

Certification of batches of amygdalin (laetrile) shall be made under the direction of the state board of pharmacy, with the costs for required testing, including purity and potency, to be borne by the manufacturer and/or wholesale distributor. The manufacturer and/or wholesale distributor shall be held totally responsible for the quality of the drug product, in accordance with RCW 18.64.270.
[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-897-060, filed 8/30/91, effective 9/30/91; Order 135, § 360-47-050, filed 10/5/77.]

Chapter 246-899 WAC

Last Update: 5/28/92

PHARMACEUTICAL—DRUG PRODUCT SUBSTITUTION

WAC Sections

246-899-020	Dispensing responsibilities.
246-899-030	Product selection responsibilities.
246-899-040	Manufacturers, wholesalers, distributors, pharmacy location, requirement that drug products offered for sale comply with 21 U.S.C. 355—Immediate suspension and subsequent revocation of licenses authorized for violation.
246-899-050	Out-of-state prescriptions.

246-899-020
Dispensing responsibilities.

When the pharmacist dispenses, with the practitioner's authorization, a therapeutically equivalent drug product, the following information shall be noted:

(a) On oral prescriptions, the pharmacist shall indicate on the permanent prescription record, if substitution is permitted.

(b) The manufacturer or distributor of the drug product actually dispensed or its national drug code number or short name code or trade name shall be noted on the permanent record, or on the patient medication record if this document is utilized for providing and recording refills. This requirement shall also apply to refill prescriptions when a different distributor or manufacturer's product is used.

(c) The generic or trade name of the drug actually dispensed shall be noted on the prescription label or package label. For combination drug products, the generic names of the drugs combined or the trade name of the manufacturer or distributor shall be noted on the prescription label. For prescriptions compounded with multiple ingredients, the label designation will be left to the discretion of the pharmacist.

(d) For institutionalized and closed system patients, the pharmacist may identify the manufacturer or distributor of the product actually dispensed through pharmacy purchasing records or packaging records, and a published formulary designation may be used on the label.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-899-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.180. WSR 79-12-063 (Order 152), § 360-49-010, filed 11/29/79; Order 143, § 360-49-010, filed 12/9/77.]

246-899-030
Product selection responsibilities.

(1) The determination of the drug product to be dispensed on a prescription is a professional responsibility of the pharmacist, and the pharmacist shall not dispense any product that in his/her professional opinion does not meet adequate standards.

(2) Pharmacists may utilize as the basis for their decisions on therapeutically equivalent drug products:

(a) Available drug product information from federal and state agencies, official compendia, and drug manufacturers, or

(b) Other scientific or professional resources, or

(c) The federal food and drug administration "approved drug products" as a board approved reference for a positive formulary of therapeutically equivalent products within the limitations stipulated in that publication.

(3) Those pharmacies that fill prescriptions based on prior authorization for therapeutically equivalent drug substitution must have available for inspection and review such authorization documentation in the institutional records or in the pharmacy.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-899-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 69.41.180. WSR 79-12-063 (Order 152), § 360-49-020, filed 11/29/79; Order 143, § 360-49-020, filed 12/9/77.]

246-899-040

Manufacturers, wholesalers, distributors, pharmacy location, requirement that drug products offered for sale comply with 21 U.S.C. 355—Immediate suspension and subsequent revocation of licenses authorized for violation.

(1) In order to provide for enforcement of RCW 69.41.100 through 69.41.180 and to protect the public health and safety when generic drugs are substituted for brand name drugs pursuant to RCW 69.41.110 through 69.41.180 drug products which are offered for sale by, or stored at the premises of, any manufacturer, distributor, wholesaler or pharmacy location must have an approved new drug application (NDA) or abbreviated new drug application (ANDA) designation by the Federal Food and Drug Administration pursuant to 21 U.S.C. 355 unless they are exempt from the requirements for such a designation.

(2) In order to provide for enforcement of RCW 69.41.100 through 69.41.180 and to protect the public health and safety drug products offered for sale by, or stored at the premises of, a manufacturer, wholesaler, distributor or pharmacy location which do not have the required NDA or ANDA, or exemption therefrom referenced in subsection (1) of this section, are hereby declared to be contraband and subject to surrender to and destruction by the Washington state board of pharmacy. This surrender and destruction shall take place as specified below.

(3) The board shall publish in its newsletter the source from which the current list compiled by the Federal Food and Drug Administration of generic drugs which do not have an NDA or ANDA and are not exempt from such a requirement and are therefore contraband as provided in subsection (2) of this section may be obtained. The board shall also respond to both written and telephone inquiries from any source regarding the status of any generic drug.

(4) Whenever it is made to appear to the board that a manufacturer, wholesaler, distributor or pharmacy location within he [the] state of Washington is in possession of a stock of drugs which are contraband as defined in subsection (2) of this section, a representative of the board shall confirm with the Federal Food and Drug Administration, by telephone, that the particular drug or drugs involved do not have the required NDA or ANDA and that they are not exempt from this requirement. Upon receipt of this confirmation, the board shall direct such of its investigative personnel as it deem necessary to proceed to the premises of the manufacturer, wholesaler, distributor or pharmacy location and to then inform the owner, or person in charge, of the contraband status of the drugs in question.

(5) The pharmacy board investigative personnel shall offer the owner, or person in charge, of the premises at which the drug products are being kept the opportunity to immediately voluntarily surrender to the board all stocks of the drug products whether kept at the premises of the manufacturer, wholesaler, distributor, or pharmacy location, or at any separate storage facility under the control of the manufacturer, wholesaler, distributor or retailer, which are contraband under subsection (2) of this section. A receipt shall be given to the owner, or person in charge, for all drug products voluntarily surrendered.

(6) All drug products voluntarily surrendered pursuant to subsection (5) of this section shall be destroyed by the board of pharmacy unless they are ordered returned to the manufacturer, wholesaler, distributor or pharmacy location by order of a court of competent jurisdiction. No destruction of any drug products surrendered will be accomplished until thirty days after the date of their surrender to the board.

(7) Retention, dispensing, promotion or advertisement, of any drug products by a manufacturer, wholesaler, distributor or pharmacy location, either at their business premises or at any separate storage facility after notification of their contraband status under subsection (2) of this section shall constitute a direct and immediate danger to the public health and safety and will be good and sufficient cause for the immediate summary suspension and subsequent revocation of any license issued by the board of pharmacy to the manufacturer, wholesaler, distributor or pharmacy location and will also constitute good and sufficient cause for revocation of any license issued by the board of pharmacy to the owner of any manufacturer, wholesaler, distributor or pharmacy location or any person in charge thereof who knowingly retains, dispenses, promotes or advertises, any drug products which are contraband under subsection (2) of this section after notification of their status.

[Statutory Authority: RCW 69.41.180. WSR 92-12-035 (Order 277B), § 246-899-040, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-899-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 87-18-066 (Order 207), § 360-49-040, filed 9/2/87. Statutory Authority: RCW 69.41.180. WSR 80-14-012 (Order 157, Resolution No. 9/80), § 360-49-040, filed 9/22/80; WSR 80-02-113 (Order 153, Resolution No. 1/80), § 360-49-040, filed 1/28/80.]

246-899-050
Out-of-state prescriptions.

(1) When dispensing a prescription issued by a practitioner licensed in a state other than Washington, and recognized in RCW 69.41.030, the pharmacist must honor the instructions of the practitioner regarding substitution. These instructions may be on a prescription blank different than that required for Washington practitioners by RCW 69.41.120 and may include the use of the words "dispense as written," words of similar meaning, a checkoff box, or some other indication of intent.

(2) If the practitioner has not clearly provided instructions regarding substitution, a pharmacist may substitute a therapeutically equivalent generic drug only if the pharmacist has determined substitution is permitted by one of the following means:

(a) The pharmacist has personal knowledge and is familiar with the laws and rules regarding substitution in the state of origin; or

(b) The pharmacist obtains oral or written authorization from the practitioner; or

(c) The pharmacist obtains current information regarding the manner in which an out-of-state practitioner provides instruction from:

(i) The Washington state board of pharmacy; or

(ii) The board of pharmacy in the state, other than Washington, in which the practitioner practices; or

(iii) Some other professional source.

(3) Drug product selection shall be based on Washington law and rule as set forth in WAC 246-899-030.

[Statutory Authority: RCW 69.41.180. WSR 92-12-035 (Order 277B), § 246-899-050, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-899-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-13-004 (Order 174B), § 360-49-050, filed 6/7/91, effective 7/8/91.]

Chapter 246-901 WAC

Last Update: 7/31/12

PHARMACY ANCILLARY PERSONNEL

WAC Sections

246-901-010 Definitions.
246-901-020 Pharmacy ancillary personnel utilization.
246-901-030 Technician education and training.
246-901-035 Pharmacy technician specialized functions.
246-901-040 Limitations, trainees.
246-901-050 Technician program approval.
246-901-060 Technician certification.
246-901-061 Pharmacy technician—Continuing education requirements.
246-901-065 Expired technician license.
246-901-070 Pharmacy assistant utilization.
246-901-080 Pharmacy assistant registration.
246-901-090 Identification.
246-901-100 Board approval of pharmacies utilizing pharmacy ancillary personnel and specialized functions.
246-901-120 AIDS prevention and information education requirements.
246-901-130 Pharmacist to pharmacy technician ratio.
246-901-140 Pharmacy services plan.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-901-110 Level A experience equivalency. [Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-110, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-100, filed 12/9/77.] Repealed by WSR 00-15-081, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.005, chapter 18.64A RCW.

246-901-010
Definitions.

(1) "Consultation" means:

(a) A communication or deliberation between a pharmacist and a patient, a patient's agent, or a patient's health care provider in which the pharmacist uses professional judgment to provide advice about drug therapy.

(b) A method by which the pharmacist meets patient information requirements as set forth in WAC 246-869-220.

(2) "Dispense" as defined in RCW 18.64.011(16).

(3) "Intravenous admixture preparation" means the preparation of a drug product that combines two or more ingredients using aseptic technique and is intended for administration into a vein.

(4) "Parenteral" as defined in WAC 246-871-010.

(5) "Pharmacy technician specialized function" means certain tasks normally reserved to a pharmacist according to WAC 246-863-095 that may be performed by a pharmacy technician who has met board requirements.

(6) "Prescription" as defined in RCW 18.64.011(8).

(7) "Responsible manager" as defined in WAC 246-869-070.

(8) "Unit-dose" and "unit-dose drug distribution system" as defined in WAC 246-865-010.

(9) "Unit-dose medication cassettes" means containers for a patient's medications into which each individually packaged and labeled drug is placed.

(10) "Verification" means the pharmacist has reviewed a patient drug order initiated by an authorized prescriber, has examined the patient's drug profile, and has approved the drug order after taking into account pertinent drug and disease information to insure the correctness of the drug order for a specific patient. The verification process must generate an audit trail that identifies the pharmacist. The pharmacist who performs the verification of a drug order is responsible for all reports generated by the approval of that order. The unit-dose medication fill and check reports are an example.

(11) "Immediate supervision" means visual and/or physical proximity to a licensed pharmacist to ensure patient safety.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-010, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.050. WSR 94-08-097, § 246-901-010, filed 4/6/94, effective 5/7/94.]

246-901-020
Pharmacy ancillary personnel utilization.

(1) Pharmacy technicians may perform certain nondiscretionary and specialized functions consistent with their training in pharmacy practice while under the immediate supervision of a licensed pharmacist.

(2) The discretionary tasks reserved to a pharmacist are listed in WAC 246-863-095.

(3) Unless authorized as a specialized function according to WAC 246-901-035, the pharmacy technician shall assist a pharmacist in the performance of all tasks except those reserved to a pharmacist in subsection (2) of this section.

(4) Entry of a new medication order into the pharmacy computer system and retrieval of the drug product to fill a prescription are tasks reserved to the pharmacist and pharmacy technician.

(5) The pharmacy assistant may assist a pharmacist in performance of all tasks except those reserved to the pharmacist and pharmacy technician.

(6) Pharmacy ancillary personnel may record or provide medication data when no interpretation is required.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-020, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.050. WSR 94-08-097, § 246-901-020, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64A.020 and 18.64A.030. WSR 92-12-035 (Order 277B), § 246-901-020, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-020, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-010, filed 12/9/77.]

246-901-030
Technician education and training.

(1) Applicants must obtain education and training from one of the following:

(a) Formal academic pharmacy technician training program approved by the board.

(b) On-the-job pharmacy technician training program approved by the board.

(2) The minimum educational prerequisite for entering a training program shall be high school graduation or G.E.D.

(3) Applicants must pass a board-approved national standardized pharmacy technician certification examination.

(4) An out-of-state pharmacy technician applicant must meet the same requirements as a pharmacy technician trained in this state. The board must approve training programs approved in other states.

(5) Applicants whose academic training has been obtained in foreign countries shall meet certification requirements as listed below:

(a) Foreign pharmacy school graduates. Board approval of program completed for the degree.

(b) Foreign medical school graduates. Board approval of program completed for the degree.

(c) All foreign graduates for whom English is not the primary language shall provide proof of receiving a score of at least 173 on the Test of English as a Foreign Language (TOEFL) and a score of 50 on the Test of Spoken English (TSE) prior to certification.

(d) Foreign trained applicants must earn 520 hours of supervised experience in an approved pharmacy technician training program.

(6) Prior to performing specialized functions, pharmacy technicians shall complete specialized training and meet proficiency criteria set forth by the board.

(a) Unit-dose medication checking. The training proficiency criteria requires demonstration of 99% accuracy in medication checking.

(b) Intravenous admixture preparation. The training proficiency criteria requires demonstration of 100% accuracy in intravenous admixture preparation of a representative sample of preparations provided by the facility using aseptic technique.

[Statutory Authority: RCW 18.64.005 and 18.64A.020. WSR 08-22-005, § 246-901-030, filed 10/24/08, effective 1/1/09. Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-030, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.050. WSR 94-08-097, § 246-901-030, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-030, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-020, filed 12/9/77.]

246-901-035
Pharmacy technician specialized functions.

A pharmacy technician who meets established criteria for employment, experience, training and demonstrated proficiency may perform specialized functions. The criteria shall be specified in the utilization plan of the pharmacy for pharmacy technicians performing specialized functions required in WAC 246-901-100 (2)(b). Records of pharmacy technician training and of demonstration of proficiency shall be retrievable within seventy-two hours upon request of the board. Specialized functions include the following:

(1) Unit-dose medication checking. Following verification of the drug order by a licensed pharmacist, a pharmacy technician may check unit-dose medication cassettes filled by another pharmacy technician or pharmacy intern in pharmacies serving facilities licensed under chapter 70.41, 71.12, 71A.20 or 74.42 RCW. No more than a forty-eight hour supply of drugs may be included in the patient medication cassettes and a licensed health professional must check the drug before administering it to the patient.

(2) Intravenous admixture and other parenteral preparations. A pharmacy technician may prepare intravenous admixtures and other parenteral drugs. A licensed pharmacist must check each parenteral drug prepared by a pharmacy technician.
[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-035, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.050. WSR 94-08-097, § 246-901-035, filed 4/6/94, effective 5/7/94.]

246-901-040
Limitations, trainees.

An individual enrolled in a training program for pharmacy technicians will perform technician functions only under the immediate supervision of a pharmacist preceptor or a delegated alternate pharmacist.
[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-040, filed 7/19/00, effective 8/19/00; WSR 91-18-057 (Order 191B), recodified as § 246-901-040, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-030, filed 12/9/77.]

246-901-050
Technician program approval.

(1) Program standards. The board will establish standards for judging pharmacy technician training programs.

(2) Approval. In order for a program for training pharmacy technicians to be considered for approval by the board, the director of the program, who shall be a pharmacist, shall submit to the board a description of the course of training offered, including subjects taught, method of teaching, and practical experience provided. The director of the program shall also advise the board concerning the skills and knowledge which are obtained in the course, and the method by which the proficiency of the pharmacy technician in those skills and knowledge is tested or ascertained. The board may require such additional information from program sponsors.

(3) Program change. The director shall request board approval before implementing any significant program change.

(4) Reapproval. The director shall submit each approved program to the board for reapproval every five years.

(5) Registry. The board will maintain a registry of approved programs. Interested persons may request a copy of the registry by contacting the board.
[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-050, filed 7/19/00, effective 8/19/00; WSR 91-18-057 (Order 191B), recodified as § 246-901-050, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-040, filed 12/9/77.]

246-901-060
Technician certification.

To become certified as a pharmacy technician, an individual must apply to the board for certification. The application must include:

(1) A statement signed by the program director verifying the applicant has successfully completed the board-approved pharmacy technician training program.

(2) Proof of passing a board-approved national standardized pharmacy technician certification examination.

It is the responsibility of the pharmacy technician to maintain a current mailing address with the board as required by chapter 246-12 WAC. Pharmacy technicians shall notify the board of any change of mailing address within thirty days of the change.

[Statutory Authority: RCW 18.64.005 and 18.64A.020. WSR 08-22-005, § 246-901-060, filed 10/24/08, effective 1/1/09. Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-060, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.005. WSR 93-17-097 (Order 387B), § 246-901-060, filed 8/17/93, effective 9/17/93. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-060, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64A.030. WSR 88-14-043 (Order 217), § 360-52-050, filed 6/30/88; Order 141, § 360-52-050, filed 12/9/77.]

246-901-061
Pharmacy technician—Continuing education requirements.

(1) A pharmacy technician certified under this chapter shall complete a minimum of ten continuing education hours or 1.0 continuing education unit (CEU) every renewal cycle following their first certification renewal. One contact hour equals 0.1 CEU.

(2) For each renewal cycle, continuing education must include:

(a) A minimum of one hour of course work in pharmacy law; and

(b) Nine hours in any course work that relates to pharmacy practice.

(3) Approved continuing education credits must be earned through a board approved continuing education program or course. Board approved continuing education includes:

(a) Courses and programs that are accredited or approved by the Accreditation Council of Pharmaceutical Education (ACPE).

(b) Courses and programs as established in WAC 246-861-050, that have been submitted by a pharmacist and approved by the board of pharmacy for purposes of pharmacist education. The course or program must be submitted on a form provided by the board and the course work must be directly related to the scope of practice of a pharmacy technician.

(4) A pharmacy technician must obtain a certificate of participation from a board-approved continuing education program for each course completed. The certificate must be kept for a minimum of four years from the date of course completion. The certificate must contain:

(a) The participant's name;

(b) Course title;

(c) Course date; and

(d) The number of continuing education hours or CEUs.

(5) In lieu of a certificate of participation, approved courses can be verified through the ACPE central repository of continuing pharmacy education monitoring system.

(6) Continuing education hours or CEUs may not be carried over from one reporting cycle to another.

(7) A pharmacy technician may request to be excused from meeting the continuing education requirements if the inability to satisfy the requirements was due to extenuating circumstances. The board determines if the requirement can be waived.

[Statutory Authority: RCW 18.64A.020. WSR 12-16-071, § 246-901-061, filed 7/31/12, effective 8/31/12.]

246-901-065
Expired technician license.

(1) If the technician license has expired for five years or less, the practitioner must meet the requirements of chapter 246-12 WAC, Part 2.

(2) If the license has expired for over five years, the practitioner must:

(a) Complete certification requirements within one year of application to the board for certification;

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

(3) If the practitioner has been in an active practice in another United States jurisdiction with duties that are substantially equivalent to a pharmacy technician in Washington state, the practitioner must:

(a) Submit verification of active practice from any other United States jurisdiction;

(b) Meet the requirements of chapter 246-12 WAC, Part 2.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-065, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-901-065, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005. WSR 93-17-097 (Order 387B), § 246-901-065, filed 8/17/93, effective 9/17/93.]

246-901-070
Pharmacy assistant utilization.

Pharmacy assistants may perform, under the general supervision of a licensed pharmacist, all duties except those reserved to the pharmacist and the pharmacy technician.

Pharmacy assistants may:

(1) Prepackage and label drugs for subsequent use in prescription dispensing operations.

(2) Count, pour, and label for individual prescriptions.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-070, filed 7/19/00, effective 8/19/00; WSR 91-18-057 (Order 191B), recodified as § 246-901-070, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64A.030. WSR 88-14-043 (Order 217), § 360-52-060, filed 6/30/88. Statutory Authority: RCW 18.64.005(11) and 18.64A.030. WSR 80-02-113 (Order 153, Resolution No. 1/80), § 360-52-060, filed 1/28/80. Statutory Authority: RCW 69.50.201. WSR 79-04-048 (Order 147, Resolution No. 3-79), § 360-52-060, filed 3/27/79; Order 141, § 360-52-060, filed 12/9/77.]

246-901-080
Pharmacy assistant registration.

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(1) Training. No formal training or educational program will be required by the board, and there will be no age or educational restrictions. The supervising pharmacist shall thoroughly instruct the pharmacy assistant in the limitations of the functions he or she may perform.

(2) Registration of pharmacy assistants. Any person desiring registration as a pharmacy assistant shall apply to the board for registration on forms to be supplied by the board. The fee for registration will be included in the fee for authorization to utilize the services of pharmacy ancillary personnel.

(3) It is the responsibility of the pharmacy assistant to maintain a current mailing address with the board as required by chapter 246-12 WAC. Pharmacy assistants shall notify the board of any change of mailing address within thirty days of the change.

(4) A pharmacy assistant registration must be renewed every two years on the assistant's birthdate. The fee for renewal is included in the fee the pharmacy pays to utilize pharmacy ancillary personnel.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-080, filed 7/19/00, effective 8/19/00; WSR 91-18-057 (Order 191B), recodified as § 246-901-080, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-070, filed 12/9/77.]

246-901-090
Identification.

All pharmacy ancillary personnel working within the pharmacy and having contact with patients or the general public shall wear badges or tags clearly identifying them as pharmacy assistants or technicians.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-090, filed 7/19/00, effective 8/19/00; WSR 91-18-057 (Order 191B), recodified as § 246-901-090, filed 8/30/91, effective 9/30/91; Order 141, § 360-52-080, filed 12/9/77.]

246-901-100
Board approval of pharmacies utilizing pharmacy ancillary personnel and specialized functions.

(1) Application. All licensed pharmacies may apply on a form supplied by the board for permission to utilize the services of pharmacy ancillary personnel.

(2) Utilization plan for pharmacy technicians.

(a) General. The application for approval must describe the manner in which the pharmacy technicians will be utilized and supervised, including job descriptions, task analysis or similar type documents that define the duties performed and the conditions under which they are performed, number of positions in each category, as well as other information as may be required by the board. The board will be notified of all changes to the utilization plan. A copy of the utilization plan must be maintained in the pharmacy.

(b) Specialized function. The utilization plan for pharmacy technicians performing specialized functions. The utilization plan must include:

(i) The criteria for selection of pharmacy technicians to perform specialized functions;

(ii) A description of the methods of training and of initial demonstration of proficiency;

(iii) A copy of the part of the section of the pharmacy's quality assurance plan related to pharmacy technician specialized functions;

(iv) Other information that may be required by the board.

(c) To gain approval for specialized functions, a pharmacy must follow board-approved guidelines regarding pharmacy technician training, implementation and evaluation.

(3) Utilization plan for pharmacy assistants. The application for approval shall list the job title or function of the pharmacy assistant.

(4) The board may give conditional approval for pilot or demonstration projects for innovative applications in the utilization of pharmacy ancillary personnel.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-100, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.050. WSR 94-08-097, § 246-901-100, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-100, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64A.030. WSR 88-14-043 (Order 217), § 360-52-090, filed 6/30/88; Order 141, § 360-52-090, filed 12/9/77.]

246-901-120
AIDS prevention and information education requirements.

Pharmacy technician and assistant applicants must complete four clock hours of AIDS education as required in chapter 246-12 WAC, Part 8.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-120, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-901-120, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-120, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 89-04-015 (Order 222), § 360-52-110, filed 1/23/89.]

246-901-130
Pharmacist to pharmacy technician ratio.

(1) A standard ratio of one pharmacist to a maximum of three technicians is established for each licensed pharmacy.

(2) The pharmacist must be actively practicing pharmacy.

(3) In determining which pharmacists may be included in the calculation of the ratio, the board will consider approval of pharmacy technician utilization plans which include all pharmacists within the pharmacy who are engaged in the actual practice of pharmacy. When the pharmacy provides service to inpatients of a hospital or extended care facility, pharmacists who are practicing pharmacy outside of the confines of the licensed pharmacy (for example, performing nursing unit inspections, reviewing charts, consulting with health professional staff) may be included in the ratio, if:

(a) There are sufficient numbers of pharmacists within the pharmacy to properly supervise the work of the pharmacy technicians;

(b) The pharmacy is not open to the public;

(c) The medications are being checked by another health professional before being given to the patient;

(d) Drug orders are not dispensed from the pharmacy without being checked by a licensed pharmacist or pharmacy intern except for board-approved pharmacy technician specialized functions provided a pharmacy technician may check unit-dose medication cassettes.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-130, filed 7/19/00, effective 8/19/00. Statutory Authority: RCW 18.64.050. WSR 94-08-097, § 246-901-130, filed 4/6/94, effective 5/7/94. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-901-130, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 91-11-040 (Order 169B), § 360-52-120, filed 5/10/91, effective 6/10/91.]

246-901-140
Pharmacy services plan.

A pharmacy may use more pharmacy technicians than prescribed by the standard ratio if the board approves the pharmacy's pharmacy services plan.

(1) The pharmacy services plan shall include, at a minimum, the following information: Pharmacy design and equipment, information systems, workflow, and quality assurance procedures. In addition, the pharmacy services plan shall demonstrate how it facilitates the provision of pharmaceutical care by the pharmacy.

(2) The board may require additional information to ensure appropriate oversight of pharmacy technicians before approving a pharmacy services plan.

(3) The board may give conditional approval for pilot or demonstration projects.

[Statutory Authority: RCW 18.64.005, chapter 18.64A RCW. WSR 00-15-081, § 246-901-140, filed 7/19/00, effective 8/19/00.]

Chapter 246-903 WAC **Last Update: 1/25/93**

NUCLEAR PHARMACIES AND PHARMACISTS

WAC Sections

246-903-001	Purpose and scope.
246-903-010	Definitions.
246-903-020	Nuclear pharmacies.
246-903-030	Nuclear pharmacists.
246-903-040	Minimum equipment requirements.

246-903-001
Purpose and scope.

(1) No person may lawfully provide radiopharmaceutical services unless he or she is a nuclear pharmacist, or is performing radiopharmaceutical services under the supervision of a nuclear pharmacist, and is acting in accordance with the state board of pharmacy and state radiation control agency regulations.

(2) These regulations shall not apply to anyone who is an "authorized practitioner" as that term is defined in section 2 of these regulations.

(3) The requirements imposed by these nuclear pharmacy regulations shall apply in addition to, and not in place of, any other requirements contained in regulations of the state board of pharmacy, the state radiation control agency, or any other state or federal agency.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-903-001, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(9). WSR 79-02-061 (Order 145, Resolution No. 1-79), § 360-54-010, filed 2/1/79.]

246-903-010
Definitions.

(1) A "nuclear pharmacy" is a class A pharmacy providing radiopharmaceutical services.

(2) "Nuclear pharmacist" means a licensed pharmacist who has submitted evidence to the board of pharmacy that he or she meets the requirements of WAC 246-903-030 of these regulations regarding training, education, and experience, and who has received notification by letter from the board of pharmacy that, based on the evidence submitted, he or she is recognized by the board of pharmacy as qualified to provide radiopharmaceutical services.

(3) "Radiopharmaceutical service" shall mean, but shall not be limited to, the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or where regulated, of therapeutic values, hazards and use of radiopharmaceuticals; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation management and control of a nuclear pharmacy.

(4) A "radiopharmaceutical" is any substance defined as a drug in section 201(g)(1) of the Federal Food, Drug and Cosmetic Act which exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any such drug which is intended to be made radioactive. This definition includes nonradioactive reagent kits and nuclide generators which are intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds or potassium-containing compounds or potassium-containing salts which contain trace quantities of naturally occurring radionuclides.

(5) "Radiopharmaceutical quality assurance" means, but is not limited to, the performance of appropriate chemical, biological and physical tests on radiopharmaceuticals and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment authentication of product history and the keeping of proper records.

(6) "Internal test assessment" means, but is not limited to, conducting those tests of quality assurance necessary to insure the integrity of the test.

(7) "Authentication of product history" means, but is not limited to, identifying the purchasing source, the ultimate fate, and intermediate handling of any component of a radiopharmaceutical.

(8) "Authorized practitioner" means a practitioner duly authorized by law to possess, use, and administer radiopharmaceuticals.

(9) "Accepted professional standards" are those set forth in the *Nuclear Pharmacy Practice Standards* published by the American Pharmaceutical Association, Board of Pharmaceutical Specialties, adopted on March 18, 1986.

[Statutory Authority: RCW 18.64.005. WSR 93-04-016 (Order 329B), § 246-903-010, filed 1/25/93, effective 2/25/93; WSR 92-12-035 (Order 277B), § 246-903-010, filed 5/28/92, effective 6/28/92. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-903-010, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(9). WSR 79-02-061 (Order 145, Resolution No. 1-79), § 360-54-020, filed 2/1/79.]

246-903-020
Nuclear pharmacies.

(1) A permit to operate a nuclear pharmacy providing radiopharmaceutical services shall only be issued to a qualified nuclear pharmacist. All personnel performing tasks in the preparation and distribution of radiopharmaceuticals shall be under the supervision of a nuclear pharmacist. The nuclear pharmacist shall be responsible for all operations of the licensed area. In emergency situations, in the nuclear pharmacist's absence, he or she may designate one or more qualified, registered or certified health care personnel to have access to the licensed area. These individuals may obtain radiopharmaceuticals for the immediate emergency and must document such withdrawals in the control system.

(2) Nuclear pharmacies shall have adequate space, commensurate with the scope of services to be provided. The nuclear pharmacy area shall be separate from the pharmacy areas for nonradiopharmaceuticals and shall be secured from access by unauthorized personnel. A nuclear pharmacy handling radiopharmaceuticals exclusively may be exempted from the general space requirements for pharmacies by obtaining a waiver from the state board of pharmacy. Detailed floor plans shall be submitted to the state board of pharmacy and the state radiation control agency before approval of the license.

(3) Nuclear pharmacies shall compound and dispense radiopharmaceuticals in accordance with accepted professional standards.

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(4) The board recognizes that the preparation of nuclear pharmaceuticals involves the compounding skills of the nuclear pharmacist to assure that the final drug product meets accepted professional standards.

(5) Nuclear pharmacies shall maintain records of acquisition and disposition of all radiopharmaceuticals in accordance with applicable regulations of the state board of pharmacy, the state radiation control agency and other state and federal agencies.

(6) For nuclear pharmacies handling radiopharmaceuticals exclusively, the state board of pharmacy may waive regulations pertaining to the pharmacy permits for nonradiopharmaceuticals for requirements that do not pertain to the practice of nuclear pharmacy.

(7) Radiopharmaceuticals are to be dispensed only upon a prescription from a practitioner authorized to possess, use and administer radiopharmaceuticals. A nuclear pharmacy may also furnish radiopharmaceuticals for office use to these practitioners.

(8) A nuclear pharmacist may transfer to authorized persons radioactive materials not intended for drug use, in accordance with regulations of the state radiation control agency.

(9) In addition to any labeling requirements of the state board of pharmacy for nonradiopharmaceuticals, the immediate outer container of the radiopharmaceutical to be dispensed shall also be labeled with: (a) Standard radiation symbol; (b) the words "caution-radioactive material"; (c) the name of the radiopharmaceutical; (d) the amount of radioactive material contained, in millicuries or microcuries; (e) if a liquid, the volume in milliliters; (f) the requested calibration time for the amount of radioactivity contained; (g) expiration data, if applicable; and (h) specific concentration of radioactivity.

(10) The immediate container shall be labeled with: (a) The standard radiation symbol; (b) the words "caution-radioactive material"; (c) the name of the nuclear pharmacy; (d) the prescription number; (e) the name of the radiopharmaceutical; (f) the date; and (g) the amount of radioactive material contained in millicuries or microcuries.

(11) The amount of radioactivity shall be determined by radiometric methods for each individual preparation immediately prior to dispensing.

(12) Nuclear pharmacies may redistribute NDA approved radiopharmaceuticals if the pharmacy does not process the radiopharmaceuticals in any manner or violate the product packaging.

(13) The nuclear pharmacy shall have the current revisions of state laws and regulations of the state board of pharmacy and state radiation control agency.

(14) The nuclear pharmacy shall maintain a library commensurate with the level of radiopharmaceutical service to be provided. A detailed library listing shall be submitted to the state board of pharmacy and state radiation control agency before approval of the license.

[Statutory Authority: RCW 18.64.005. WSR 93-04-016 (Order 329B), § 246-903-020, filed 1/25/93, effective 2/25/93. Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-903-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(9). WSR 79-02-061 (Order 145, Resolution No. 1-79), § 360-54-030, filed 2/1/79.]

246-903-030
Nuclear pharmacists.

In order for a pharmacist to qualify under these regulations as a nuclear pharmacist, he or she must:

(1) Meet minimal standards of training and experience in the handling of radioactive materials in accordance with the requirements of the state radiation control agency; and,

(2) Be a pharmacist licensed to practice in Washington; and,

(3) Submit to the board of pharmacy either:

(a) Certification that he or she has completed a minimum of 6 months on-the-job training under the supervision of a qualified nuclear pharmacist in a nuclear pharmacy providing radiopharmaceutical services, or

(b) Certification that he or she has completed a nuclear pharmacy training program in an accredited college of pharmacy or

(c) That upon application to the board in affidavit form, and upon the furnishing of such other information as the board may require, the board may grant partial or equivalent credit for education and experience gained in programs not sponsored by an accredited college of pharmacy, if, in the opinion of the board, the education and experience gained by participants in these programs would provide the same level of competence as participation in a program at an accredited college of pharmacy; and

(4) Receive a letter of notification from the board of pharmacy that the evidence submitted that the pharmacist meets the requirements of subsections 1, 2, and 3 above has been accepted by the board and that, based thereon, the pharmacist is recognized by the board as a nuclear pharmacist.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-903-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(9). WSR 79-02-061 (Order 145, Resolution No. 1-79), § 360-54-040, filed 2/1/79.]

246-903-040
Minimum equipment requirements.

(1) Nuclear pharmacies shall have adequate equipment commensurate with the scope of radiopharmaceutical services to be provided. A detailed list of equipment and description of use must be submitted to the state board of pharmacy and radiation control agency before approval of the license.

(2) The state board of pharmacy may, for good cause shown, waive regulations pertaining to the equipment and supplies required for nuclear pharmacies handling radiopharmaceuticals exclusively.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-903-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005(9). WSR 79-02-061 (Order 145, Resolution No. 1-79), § 360-54-050, filed 2/1/79.]

Chapter 246-904 WAC

Last Update: 12/20/96

HEALTH CARE ENTITIES

WAC Sections

246-904-010	Definition.
246-904-020	New health care entity licensing.
246-904-030	Pharmacist in charge.
246-904-040	Drug procurement, distribution and control.
246-904-050	Dispensing of prescription medications from health care entities.
246-904-060	Labeling.
246-904-070	Records.
246-904-080	Absence of a pharmacist.
246-904-090	Administration.
246-904-100	Closing.

246-904-010
Definition.

Health care entity - an organization that provides health care services in a setting that is not otherwise licensed by the state. Health care entity includes any of the following which are not part of another licensed facility, including: Outpatient surgery centers, cardiac care centers, or kidney dialysis centers. It does not include an individual practitioner's office or a multipractitioner clinic.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-010, filed 12/20/96, effective 1/20/97.]

246-904-020
New health care entity licensing.

No health care entity shall be issued a license until the facility has submitted an application along with the applicable fees set forth in WAC 246-907-020 through 246-907-030 and has passed an inspection by a Washington state board of pharmacy investigator. The investigator shall determine if the purchase, ordering, storing, compounding, delivering, dispensing and administration of controlled substances and/or legend drugs complies with all applicable state and federal statutes and regulations. Physical requirements for the areas of a health care entity where drugs are stored, compounded, delivered or dispensed shall comply with WAC 246-873-070.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-020, filed 12/20/96, effective 1/20/97.]

246-904-030
Pharmacist in charge.

Every health care entity licensed under this chapter shall designate a pharmacist in charge. The pharmacist in charge may be employed in a full-time capacity or as a pharmacist consultant. The pharmacist in charge must be licensed to practice pharmacy in the state of Washington. The pharmacist in charge designated by a health care entity shall have the authority and responsibility to assure that the area(s) within the health care entity where drugs are stored, compounded, delivered or dispensed are operated in compliance with all applicable state and federal statutes and regulations.

It shall be the responsibility of the pharmacist in charge:

(1) To create and implement policy and procedures relating to:

(a) Purchasing, ordering, storing, compounding, delivering, dispensing or administering of controlled substances or legend drugs.

(b) Accuracy of inventory records, patient medical records as related to the administration of controlled substances and legend drugs, and any other records required to be kept by state and federal regulations.

(c) Adequate security of legend drugs and controlled substances.

(d) Controlling access to controlled substances and legend drugs.

(2) To assure that the Washington state board of pharmacy is in possession of all current policies and procedures identified in subsection (1) of this section.

(3) To execute all forms for the purchase and order of legend drugs and controlled substances.

(4) To verify receipt of all legend drugs and controlled substances purchased and ordered by the health care facility.

[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-030, filed 12/20/96, effective 1/20/97.]

246-904-040
Drug procurement, distribution and control.

The procurement, distribution and control of drugs shall be in accordance with WAC 246-873-080.

[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-040, filed 12/20/96, effective 1/20/97.]

246-904-050
Dispensing of prescription medications from health care entities.

Drugs dispensed to patients of a health care entity must be dispensed in a manner consistent with the requirements of RCW 18.64.246 through 18.64.247, chapters 69.41 and 69.50 RCW, and WAC 246-869-220 through 246-869-240.

[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-050, filed 12/20/96, effective 1/20/97.]

246-904-060
Labeling.

Drugs dispensed to patients of a health care entity must comply with the labeling requirements of WAC 246-869-210.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-060, filed 12/20/96, effective 1/20/97.]

246-904-070
Records.

To the extent applicable, all prescription records shall be maintained in accordance with WAC 246-869-100 and chapter 246-875 WAC et seq.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-070, filed 12/20/96, effective 1/20/97.]

246-904-080
Absence of a pharmacist.

Pharmaceutical services shall be available at all times patients are present in the facility. At times when no pharmacist is in the facility, the entity must comply with the requirements of WAC 246-873-050 and 246-873-060.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-080, filed 12/20/96, effective 1/20/97.]

246-904-090
Administration.

Administration of drugs to patients of a health care entity shall be in accordance with WAC 246-873-090.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-090, filed 12/20/96, effective 1/20/97.]

246-904-100
Closing.

When a health care entity ceases to do business or to provide pharmaceutical services to patients, the entity shall follow the provisions of WAC 246-869-250.
[Statutory Authority: RCW 18.64.450. WSR 97-02-015, § 246-904-100, filed 12/20/96, effective 1/20/97.]

Chapter 246-905 WAC

Last Update: 8/30/91

PHARMACY—HOME DIALYSIS PROGRAM

WAC Sections

246-905-020 Home dialysis program—Legend drugs.
246-905-030 Pharmacist consultant.
246-905-040 Records.
246-905-050 Quality assurance.

246-905-020
Home dialysis program—Legend drugs.

Pursuant to RCW 18.64.257 and 69.41.032, a medicare-approved dialysis center or facility operating a medicare-approved home dialysis program may sell, deliver, possess and/or dispense directly to its home dialysis patients in cases or full shelf package lots, if prescribed by a physician, the following legend drugs:

(a) Sterile heparin, 1000u/ml, in vials;

(b) Sterile potassium chloride, 2mEq/ml, for injection;

(c) Commercially available dialysate; and,

(d) Sterile sodium chloride, 0.9%, for injection in containers of not less than 150ml.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-905-020, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-06-026 (Order 210), § 360-60-010, filed 2/25/88.]

246-905-030
Pharmacist consultant.

Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and 69.41.032, shall have an agreement with a pharmacist which provides for consultation as necessary. This shall include advice on the drug distribution process to home dialysis patients and on the location used for storage and distribution of the authorized drugs, which shall be reasonably separated from other activities and shall be secure.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-905-030, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-06-026 (Order 210), § 360-60-020, filed 2/25/88.]

246-905-040
Records.

(1) A record of shipment shall be attached to the prescriber's order and shall include: The name of the patient, strengths, and quantities of drugs; the manufacturers' names; date of shipment; names of persons who selected, assembled and packaged for shipment; and, the name of the pharmacist or designated individual responsible for the distribution.

(2) Prescription and drug distribution records shall be maintained in accordance with board of pharmacy record retention requirements.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-905-040, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-06-026 (Order 210), § 360-60-030, filed 2/25/88.]

246-905-050
Quality assurance.

Home dialysis programs involved in the distribution of legend drugs as permitted by RCW 18.64.257 and 69.41.032, shall develop a quality assurance program for drug distribution and shall maintain records of drug distribution errors and other problems, including loss due to damage or theft.

[Statutory Authority: RCW 18.64.005 and chapter 18.64A RCW. WSR 91-18-057 (Order 191B), recodified as § 246-905-050, filed 8/30/91, effective 9/30/91. Statutory Authority: RCW 18.64.005. WSR 88-06-026 (Order 210), § 360-60-040, filed 2/25/88.]

Chapter 246-907 WAC

Last Update: 10/4/11

PHARMACEUTICAL LICENSING PERIODS AND FEES

WAC Sections

246-907-030 Pharmaceutical licensing periods and fees—Fees and renewal cycle.
246-907-040 Fee payment.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

246-907-020 Licensing periods. [Statutory Authority: RCW 43.70.040. WSR 97-06-019, § 246-907-020, filed 2/25/97, effective 3/28/97. Statutory Authority: RCW 18.64.005. WSR 94-14-038 § 246-907-020, filed 6/29/94, effective 7/30/94. Statutory Authority: RCW 43.70.250. WSR 92-07-099 (Order 256), § 246-907-020, filed 3/18/92, effective 4/18/92. Statutory Authority: RCW 43.70.040. WSR 91-19-028 (Order 194), recodified as § 246-907-020, filed 9/10/91, effective 10/11/91. Statutory Authority: RCW 18.64.005. WSR 88-14-042 (Order 216), § 360-18-010, filed 6/30/88. Statutory Authority: RCW 18.64.005, 18.81.080 and 42.17.290. WSR 83-01-083 (Order 171), § 360-18-010, filed 12/17/82. Statutory Authority: RCW 18.64.005 (4) and (11). WSR 80-05-074 (Order 154, Resolution No. 4/80), § 360-18-010, filed 4/28/80.] Repealed by WSR 98-05-060, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW 43.70.280.

246-907-995 Conversion to a birthday renewal cycle. [Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-907-995, filed 2/13/98, effective 3/16/98.] Repealed by WSR 05-12-012, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110.

246-907-030
Pharmaceutical licensing periods and fees—Fees and renewal cycle.

(1) Pharmacist, pharmacy technician, and pharmacy intern licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Pharmacy location, controlled substance registration (pharmacy), pharmacy technician utilization, and shopkeepers differential hours licenses will expire on June 1 of each year.

(3) All other licenses, including health care entity licenses, registrations, permits, or certifications will expire on October 1 of each year.

(4) The following nonrefundable fees will be charged for pharmacy location:

Title of fee	Fee
Original pharmacy fee	$370.00
iginal pharmacy technician utilization fee	65.00
Renewal pharmacy fee	405.00
enewal pharmacy technician	75.00

Title of fee	Fee
utilization fee	
Penalty pharmacy fee	205.00

(5) The following nonrefundable fees will be charged for vendor:

Original fee	75.00
Renewal fee	75.00
Penalty fee	50.00

(6) The following nonrefundable fees will be charged for pharmacist:

Original license fee	145.00
enewal fee, active and inactive license	190.00
Renewal fee, retired license	25.00
Penalty fee	100.00
pired license reissuance (active and inactive)	90.00
Reciprocity fee	335.00
rtification of license status to other states	30.00
Retired license	25.00
Temporary permit	65.00

(7) The following nonrefundable fees will be charged for shopkeeper:

Original fee	40.00
Renewal fee	40.00
Penalty fee	40.00
Shopkeeper - with differential hours:	
Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00

(8) The following nonrefundable fees will be charged for drug manufacturer:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(9) The following nonrefundable fees will be charged for drug wholesaler - Full line:

Original fee	590.00
Renewal fee	590.00

Penalty fee	295.00

(10) The following nonrefundable fees will be charged for drug wholesaler - OTC only:

Original fee	330.00
Renewal fee	330.00
Penalty fee	165.00

(11) The following nonrefundable fees will be charged for drug wholesaler - Export:

Original fee	590.00
Renewal fee	590.00
Penalty	295.00

(12) The following nonrefundable fees will be charged for drug wholesaler - Export nonprofit humanitarian organization.

Original fee	25.00
Renewal fee	25.00
Penalty	25.00

(13) The following nonrefundable fees will be charged for pharmacy technician:

Original fee	60.00
Renewal fee	50.00
Penalty fee	50.00
Expired license reissuance	50.00

(14) The following nonrefundable fees will be charged for pharmacy intern:

Original registration fee	30.00
Renewal registration fee	30.00

(15) The following nonrefundable fees will be charged for Controlled Substances Act (CSA):

Registrations	
spensing registration fee (i.e. pharmacies and health care entities)	80.00
spensing renewal fee (i.e. pharmacies and health care entities)	65.00
stributors registration fee (i.e. wholesalers)	115.00
stributors renewal fee	115.00

(i.e. wholesalers)	
Manufacturers registration fee	115.00
Manufacturers renewal fee	115.00
dium pentobarbital for animal euthanization registration fee	40.00
dium pentobarbital for animal euthanization renewal fee	40.00
Other CSA registrations	40.00

(16) The following nonrefundable fees will be charged for legend drug sample - Distributor:

Registration fees	
Original fee	365.00
Renewal fee	265.00
Penalty fee	135.00

(17) The following nonrefundable fees will be charged for poison manufacturer/seller - License fees:

Original fee	40.00
Renewal fee	40.00

(18) The following nonrefundable fees will be charged for facility inspection fee:

200.00

(19) The following nonrefundable fees will be charged for precursor control permit:

Original fee	65.00
Renewal fee	65.00

(20) The following nonrefundable fees will be charged for license reissue:

Reissue fee	30.00

(21) The following nonrefundable fees will be charged for health care entity:

Original fee	365.00
Renewal	265.00
Penalty	135.00

[Statutory Authority: RCW 43.70.110, 43.70.250, and 2011 1st sp.s. c 50. WSR 11-20-092, § 246-907-030, filed 10/4/11, effective 12/1/11. Statutory Authority: RCW 43.70.110, 43.70.250, 2008 c 329. WSR 08-15-014, § 246-907-030, filed 7/7/08, effective 7/7/08. Statutory Authority: RCW 43.70.250, [43.70.]280 and 43.70.110. WSR 05-12-012, § 246-907-030, filed 5/20/05, effective 7/1/05. Statutory Authority: RCW 43.70.250, 2001 2nd sp.s. c 7 and RCW 18.64.310, 18.64A.010. WSR 01-23-101, § 246-907-030, filed 11/21/01, effective 1/21/02. Statutory Authority: RCW 43.70.040, 42.70.250, and 18.64.310. WSR 01-12-052, § 246-907-030, filed 6/1/01, effective 7/2/01. Statutory Authority: RCW 43.70.250. WSR 98-10-052, § 246-907-030, filed 4/29/98, effective 5/30/98. Statutory Authority: RCW 43.70.280. WSR 98-05-060, § 246-907-030, filed 2/13/98, effective 3/16/98. Statutory Authority: RCW

43.70.040. WSR 97-06-019, § 246-907-030, filed 2/25/97, effective 3/28/97. Statutory Authority: RCW 18.64.005. WSR 94-05-036, § 246-907-030, filed 2/8/94, effective 3/11/94; WSR 93-18-015, § 246-907-030, filed 8/24/93, effective 9/24/93; WSR 93-05-045 (Order 334), § 246-907-030, filed 2/17/93, effective 3/20/93. Statutory Authority: RCW 43.70.250. WSR 92-07-099 (Order 256), § 246-907-030, filed 3/18/92, effective 4/18/92. Statutory Authority: RCW 43.70.040. WSR 91-19-028 (Order 194), recodified as § 246-907-030, filed 9/10/91, effective 10/11/91. Statutory Authority: RCW 43.70.250. WSR 91-13-002 (Order 173), § 360-18-020, filed 6/6/91, effective 7/7/91. Statutory Authority: RCW 18.64.005. WSR 89-04-015 (Order 222), § 360-18-020, filed 1/23/89; WSR 88-14-042 (Order 216), § 360-18-020, filed 6/30/88; WSR 88-07-011 (Order 209), § 360-18-020, filed 3/3/88; WSR 87-18-066 (Order 207), § 360-18-020, filed 9/2/87. Statutory Authority: RCW 18.64.005(4). WSR 85-22-033 (Order 196), § 360-18-020, filed 10/31/85; WSR 85-06-010 (Order 193), § 360-18-020, filed 2/22/85. Statutory Authority: RCW 18.64.005. WSR 84-17-142 (Order 189), § 360-18-020, filed 8/22/84; WSR 84-04-030 (Order 184), § 360-18-020, filed 1/25/84; WSR 83-22-034 (Order 177), § 360-18-020, filed 10/26/83. Statutory Authority: RCW 18.64.005 and 18.64A.020. WSR 83-18-021 (Order 175), § 360-18-020, filed 8/30/83. Statutory Authority: RCW 18.64.005(12). WSR 82-12-041 (Order 168), § 360-18-020, filed 5/28/82. Statutory Authority: RCW 18.64.005 (4) and (11). WSR 80-08-035 (Order 155, Resolution No. 6/80), § 360-18-020, filed 6/26/80, effective 9/30/80; WSR 80-05-074 (Order 154, Resolution No. 4/80), § 360-18-020, filed 4/28/80.]

246-907-040
Fee payment.

(1) A licensed pharmacist, wholesaler, or manufacturer shall pay a facility inspection fee in lieu of the original license fee when there is only a change of facility location within the premises identified by the license address. Any change of location to a different address shall require a new application and payment of the original license fee.

(2) An original license fee shall be paid whenever there is any change in ownership, including change in business structure or organizational structure such as a change from sole proprietorship to a corporation, or a change of more than fifty percent ownership in a corporation.

(3) All fees are charged on an annual basis and will not be prorated.

[Statutory Authority: RCW 43.70.040. WSR 91-19-028 (Order 194), recodified as § 246-907-040, filed 9/10/91, effective 10/11/91. Statutory Authority: RCW 18.64.005. WSR 88-07-011 (Order 209), § 360-18-025, filed 3/3/88.]

Chapter 246-978 WAC

Last Update: 2/20/09

DEATH WITH DIGNITY ACT REQUIREMENTS

WAC Sections

246-978-001	Purpose and authority.
246-978-010	Definitions.
246-978-020	Reporting.
246-978-030	Confidentiality—Liability.
246-978-040	Qualifications of witness in a long-term care facility.

246-978-001
Purpose and authority.

This chapter is adopted by the Washington state department of health to implement the provisions of chapter 70.245 RCW, the Washington Death with Dignity Act.
[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-001, filed 2/20/09, effective 3/5/09.]

246-978-010
Definitions.

For the purpose of this chapter, the following definitions apply:

(1) "Act" means the "Washington Death with Dignity Act" or Initiative Measure No. 1000 as adopted by the voters on November 4, 2008, codified as chapter 70.245 RCW.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Attending physician" means the physician, as defined in chapter 18.71 or 18.57 RCW, who has primary responsibility for the care of the patient and treatment of the patient's terminal disease.

(4) "Competent" means that, in the opinion of a court or in the opinion of the patient's attending physician or consulting physician, psychiatrist, or psychologist, a patient has the ability to make and communicate an informed decision to health care providers, including communication through persons familiar with the patient's manner of communicating, if those persons are available.

(5) "Consulting physician" means a physician who is qualified by specialty or experience to make a professional diagnosis and prognosis regarding the patient's disease.

(6) "Counseling" means one or more consultations as necessary between a state licensed psychiatrist or psychologist and a patient for the purpose of determining that the patient is competent and not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

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

(8) "Dispensing record" means a copy of the Pharmacy Dispensing Record form, DOH 422-067.

(9) "Health care provider" means a person licensed, certified or otherwise authorized or permitted by the law to administer health care or dispense medication in the ordinary course of business or practice of a profession and includes a health care facility.

(10) "Informed decision" means a decision by a qualified patient, to request and obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner, that is based on an appreciation of the relevant facts and after being fully informed by the attending physician of:

(a) His or her medical diagnosis;

(b) His or her prognosis;

(c) The potential risks associated with taking the medication to be prescribed;

(d) The probable result of taking the medication to be prescribed; and

(e) The feasible alternatives including, but not limited to, comfort care, hospice care, and pain control.

(11) "Long-term care facility" means a facility licensed under chapter 18.51 or 72.36 RCW.

(12) "Medically confirmed" means the medical opinion of the attending physician has been confirmed by a consulting physician who has examined the patient and the patient's relevant medical records.

(13) "Patient" means a person who is under the care of a physician.

(14) "Physician" means a doctor of medicine, as defined in chapter 18.71 RCW, or osteopathy, as defined in chapter 18.57 RCW, licensed to practice medicine in the state of Washington.

(15) "Qualified patient" means a competent adult who is a resident of Washington state and has satisfied the requirements of the act in order to obtain a prescription for medication that the qualified patient may self-administer to end his or her life in a humane and dignified manner.

(16) "Self-administer" means a qualified patient's act of ingesting medication to end his or her life in a humane and dignified manner.

(17) "Terminal disease" means an incurable and irreversible disease that has been medically confirmed and will, within reasonable medical judgment, produce death within six months.

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-010, filed 2/20/09, effective 3/5/09.]

246-978-020
Reporting.

(1) To comply with the act, within thirty calendar days of writing a prescription for medication to end the life of a qualified patient, the attending physician shall send the following completed, signed, and dated documentation by mail to the State Registrar, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504:

(a) The patient's completed written request for medication to end life, either using the Written Request for Medication to End My Life in a Humane and Dignified Manner form, DOH 422-063, or in substantially the same form as described in the act;

(b) Attending Physician's Compliance form, DOH 422-064;

(c) Consulting Physician's Compliance form, DOH 422-065; and

(d) Psychiatric/Psychological Consultant's Compliance form, DOH 422-066, if an evaluation was performed.

(2) Within thirty calendar days of a qualified patient's ingestion of a lethal dose of medication obtained under the act, or death from any other cause, whichever comes first, the attending physician shall complete the Attending Physician's After Death Reporting form, DOH 422-068.

(3) To comply with the act, within thirty calendar days of dispensing medication, the dispensing health care provider shall file a copy of the Pharmacy Dispensing Record form, DOH 422-067, with the State

Registrar, Center for Health Statistics, P.O. Box 47814, Olympia, WA 98504. Information to be reported to the department shall include:

(a) Patient's name and date of birth;
(b) Patient's address;
(c) Prescribing physician's name and phone number;
(d) Dispensing health care provider's name, address and phone number;
(e) Medication dispensed and quantity;
(f) Date the prescription was written; and
(g) Date the medication was dispensed.

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-020, filed 2/20/09, effective 3/5/09.]

246-978-030
Confidentiality—Liability.

All information collected by the department under the act shall not be a public record and may not be available for inspection by the public under chapter 42.56 RCW. This information includes, but is not limited to, the identity of patients, health care providers, and health care facilities.

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-030, filed 2/20/09, effective 3/5/09.]

246-978-040
Qualifications of witness in a long-term care facility.

When a patient makes a written request for medication under the act, they must have at least two witnesses who, in the presence of the patient, attest that to the best of their knowledge and belief the patient is competent, acting voluntarily, and is not being coerced to sign the request. The patient's attending physician at the time the request is signed may not be a witness.

If the patient is a patient in a long-term care facility at the time the written request is made, one of the witnesses must be designated by the long-term care facility. The witness designated by the long-term care facility may be, but is not limited to, an ombudsman, chaplain, or social worker. The witness designated by the long-term care facility may not be:

(1) A relative of the patient by blood, marriage, or adoption;

(2) A person who at the time the request is signed would be entitled to any portion of the estate of the qualified patient upon death under any will or by operation of law; or

(3) An owner, operator, or employee of a long-term care facility where the qualified patient is receiving medical treatment or is a resident.

[Statutory Authority: Chapter 70.245 RCW. WSR 09-06-010, § 246-978-040, filed 2/20/09, effective 3/5/09.]