

(4) The excise tax imposed pursuant to RCW 36.100.040 shall terminate upon final payment of all bonded indebtedness for the sports and entertainment facility.

Passed the Senate May 7, 1989.

Passed the House May 7, 1989.

Approved by the Governor May 31, 1989.

Filed in Office of Secretary of State May 31, 1989.

CHAPTER 9

[Senate Bill No. 6152]

DEPARTMENT OF HEALTH

AN ACT Relating to health; amending RCW 9.02.005, 26.04.165, 26.09.020, 26.09.150, 28B.104.020, 42.48.010, 43.20.025, 43.20.050, 43.20A.010, 43.20A.030, 43.20A.060, 43.20A.360, 43.20A.660, 43.20B.110, 43.21A.170, 43.21A.445, 48.21A.090, 48.42.070, 48.44.320, 48.46.040, 68.50.280, 69.04.915, 71.12.460, 71.12.480, 71.12.485, 71.12.490, 71.12.500, 71.12.520, 71.12.530, 71.12.540, 71.12.640, 70.123.030, 43.20A.600, 43.20A.615, 43.20A.620, 43.20A.625, 43.20A.640, 43.20A.645, 43.20A.650, 43.20A.655, 43.20A.665, 70.37.030, 74.15.060, 74.15.080, 18.120.040, 18.122.010, 18.122.020, 18.122.030, 18.122.050, 18.122.100, 18.122.110, 18.130.020, 18.130.310, 43.24.020, 43.24.086, 19.02.040, 19.02.050, 43.24.015, 18.64.044, 18.64.245, 18.64.080, 18.64.165, 69.41.020, 18.64.005, 18.64.009, 18.64.011, 18.64.040, 18.64.043, 18.64.044, 18.64.045, 18.64.046, 18.64.047, 18.64.050, 18.64.080, 18.64.140, 18.64A.010, 18.64A.030, 18.64A.050, 18.64A.060, 69.41.010, 69.41.075, 69.41.220, 69.50.101, 69.50.201, 69.50.301, 69.50.302, 69.50.303, 69.50.304, 69.50.310, 69.50.311, 69.50.500, 69.51.030, 69.51.040, 69.38.060, 69.43.040, 69.43.050, 69.43.090, 69.45.010, 69.45.020, 69.45.030, 69.45.070, 70.38.015, 70.38.025, 70.38.105, 70.38.111, 70.38.115, 70.38.125, 70.38.135, 70.41.090, 70.41.170, 43.17.010, 43.17.020, 42.17.2401, and 74.38.020; reenacting and amending RCW 43.20.030, 43.200.040, 42.17.310, and 74.04.005; adding a new section to chapter 15.36 RCW; adding a new section to chapter 18.64 RCW; adding a new section to chapter 18.104 RCW; adding a new section to chapter 19.32 RCW; adding a new section to chapter 28A.31 RCW; adding a new section to chapter 41.06 RCW; adding a new section to chapter 43.83B RCW; adding a new section to chapter 43.99D RCW; adding a new section to chapter 43.99E RCW; adding new sections to chapter 69.41 RCW; adding a new section to chapter 70.— RCW (ESHB 1968); adding a new section to chapter 70.05 RCW; adding a new section to chapter 70.08 RCW; adding a new section to chapter 70.12 RCW; adding a new section to chapter 70.22 RCW; adding a new section to chapter 70.24 RCW; adding a new section to chapter 70.40 RCW; adding a new section to chapter 70.41 RCW; adding a new section to chapter 70.54 RCW; adding a new chapter to Title 18 RCW; adding a new chapter to Title 43 RCW; adding new chapters to Title 70 RCW; creating new sections; recodifying RCW 43.20A.600, 43.20A.615, 43.20A.620, 43.20A.625, 43.20A.640, 43.20A.645, 43.20A.650, 43.20A.655, 43.20A.665, 43.24.015, 43.20A.140, and 43.24.072; repealing RCW 18.32.326, 18.34.040, 43.24.075, 70.38.055, 70.38.065, 70.38.145, 18.64.007, 70.38.045, 70.38.085, 70.38.035, and 74.— (section 35, chapter — (ESHB 1968), Laws of 1989); prescribing penalties; making appropriations; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

PART I

GENERAL PROVISIONS

NEW SECTION. Sec. 101. The legislature finds and declares that it is of importance to the people of Washington state to live in a healthy environment and to expect a minimum standard of quality in health care. The legislature further finds that the social and economic vitality of the state

depend on a healthy and productive population. The legislature further declares where it is a duty of the state to assure a healthy environment and minimum standards of quality in health care facilities and among health care professionals, the ultimate responsibility for a healthy society lies with the citizens themselves.

For these reasons, the legislature recognizes the need for a strong, clear focus on health issues in state government and among state health agencies to give expression to the needs of individual citizens and local communities as they seek to preserve the public health. It is the intent of the legislature to form such focus by creating a single department in state government with the primary responsibilities for the preservation of public health, monitoring health care costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for all the state's activities as they relate to the health of its citizenry.

Further, it is the intent of the legislature to improve illness and injury prevention and health promotion, and restore the confidence of the citizenry in the expenditure of public funds on health activities, and to ensure that this new health agency delivers quality health services in an efficient, effective, and economical manner that is faithful and responsive to policies established by the legislature.

NEW SECTION. Sec. 102. As used in this chapter, unless the context indicates otherwise:

- (1) "Board" means the state board of health;
- (2) "Council" means the health care access and cost control council;
- (3) "Department" means the department of health; and
- (4) "Secretary" means the secretary of health.

NEW SECTION. Sec. 103. (1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by this act and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of the department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;

(c) Maximum span of control without jeopardizing adequate supervision;

(d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;

(e) Decentralized authority and responsibility, with clear accountability;

(f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:

(a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Developing intervention strategies;

(c) Providing expert advice to the executive and legislative branches of state government;

(d) Providing active and fair enforcement of rules;

(e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;

(f) Providing information to the public; and

(g) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All persons who administer the necessary divisions, offices,

bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

NEW SECTION. Sec. 104. The executive head and appointing authority of the department shall be the secretary of health. The secretary shall be appointed by, and serve at the pleasure of, the governor in accordance with RCW 43.17.020. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040.

****NEW SECTION. Sec. 105. The department of health shall employ a state health officer. The state health officer shall be appointed by the secretary, with the consent of the senate, and serve at the pleasure of the secretary. The state health officer, who shall serve as a deputy secretary, shall be licensed to practice medicine and surgery or osteopathy and surgery in the state and shall have a master's degree in public health or the equivalent training or experience in the delivery of public health services.***

****Sec. 105 was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 106. In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this act;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this act. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this act in accordance with section 107 of this act;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of this act;

(5) Enter into contracts on behalf of the department to carry out the purposes of this act;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of this act; or

(7) Accept gifts, grants, or other funds.

NEW SECTION. Sec. 107. (1) The legislature intends that the department, board, and council promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in

this act in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.17 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board or council, within their authority, for inclusion in

the state health report required by RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health status of the citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy.

NEW SECTION. Sec. 108. It is the intent of the legislature to promote appropriate use of health care resources to maximize access to adequate health care services. The legislature understands that the rapidly increasing costs of health care are limiting access to care. To promote health care cost-effectiveness, the department shall:

- (1) Implement the certificate of need program;
- (2) Monitor and evaluate health care costs;
- (3) Evaluate health services and the utilization of services for outcome and effectiveness; and
- (4) Recommend strategies to encourage adequate and cost-effective services and discourage ineffective services.

NEW SECTION. Sec. 109. The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board and the council for use in preparation of the state health report required by RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department, with advice from the council shall use the information to:

(a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and

(b) Make recommendations to the governor on how state government and private purchasers may be prudent purchasers of cost-effective, adequate health services.

PART II
FUNCTIONS TRANSFERRED FROM DEPARTMENT OF SOCIAL
AND HEALTH SERVICES, STATE HEALTH COORDINATING
COUNCIL, AND OTHER AGENCIES

NEW SECTION. Sec. 201. The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, 70.32, 70.33, 70.50, 70.58, 70.62, 70.83, 70.83B, 70.90, 70.98, 70.104, 70.116, 70.118, 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects; cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including x-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities; food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; handicapped children's services; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; prenatal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate.

Sec. 202. Section 3, chapter 213, Laws of 1985 and RCW 9.02.005 are each amended to read as follows:

The powers and duties of the state board of health under this chapter shall be performed by the department of ~~((social and health services))~~ health.

Sec. 203. Section 1, chapter 279, Laws of 1969 ex. sess. as amended by section 34, chapter 141, Laws of 1979 and RCW 26.04.165 are each amended to read as follows:

In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of ~~((social and health services))~~ health marriage certificate form prescribed by RCW 70.58.200 to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics ~~((:PROVIDED, That))~~. After the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married.

Sec. 204. Section 2, chapter 157, Laws of 1973 1st ex. sess. as last amended by section 2, chapter 45, Laws of 1983 1st ex. sess. and RCW 26.09.020 are each amended to read as follows:

(1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

- (a) The last known residence of each party;
 - (b) The date and place of the marriage;
 - (c) If the parties are separated the date on which the separation occurred;
 - (d) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;
 - (e) Any arrangements as to the custody, visitation and support of the children and the maintenance of a spouse;
 - (f) A statement specifying whether there is community or separate property owned by the parties to be disposed of;
 - (g) The relief sought.
- (2) Either or both parties to the marriage may initiate the proceeding.
- (3) The petitioner shall complete and file with the petition a certificate under RCW 70.58.200 on the form provided by the department of ~~((social and health services))~~ health.

Sec. 205. Section 15, chapter 157, Laws of 1973 1st ex. sess. and RCW 26.09.150 are each amended to read as follows:

A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in RCW 70.58.200 on the form provided by the department of ~~((social and health services))~~ health. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order a former name restored and may, on motion of either party, for just and reasonable cause, order the wife to assume a name other than that of the husband.

Sec. 206. Section 2, chapter 242, Laws of 1988 and RCW 28B.104.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Conditional scholarship" means a loan that is forgiven in whole or in part if the recipient renders nursing service as a nurse serving in a nurse shortage area, as defined by the state department of health ~~((coordinating council))~~.

(2) "Institution of higher education" or "institution" means a community college, vocational-technical school, or university in the state of Washington which is accredited by an accrediting association recognized as such by rule of the higher education coordinating board.

(3) "Board" means the higher education coordinating board.

(4) "Eligible student" means a student who has been accepted into a program leading to eligibility for licensure as a licensed practical nurse, or to a program leading to an associate, baccalaureate, or higher degree in nursing or continues satisfactory progress within the program; and has a declared intention to serve in a nurse shortage area upon completion of the educational program.

(5) "Nurse shortage area" means those areas where nurses are in short supply as a result of geographic maldistribution; or specialty areas of nursing, such as geriatrics or critical care, where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The state department of health ~~((coordinating council))~~ shall determine nurse shortage areas in the state guided by federal standards of "health manpower shortage areas."

(6) "Forgiven" or "to forgive" or "forgiveness" means to render nursing service in a nurse shortage area in the state of Washington in lieu of monetary repayment.

(7) "Satisfied" means paid-in-full.

(8) "Participant" means an eligible student who has received a conditional scholarship under this chapter.

Sec. 207. Section 1, chapter 334, Laws of 1985 and RCW 42.48.010 are each amended to read as follows:

For the purposes of this chapter, the following definitions apply:

(1) "Individually identifiable" means that a record contains information which reveals or can likely be associated with the identity of the person or persons to whom the record pertains.

(2) "Legally authorized representative" means a person legally authorized to give consent for the disclosure of personal records on behalf of a minor or a legally incompetent adult.

(3) "Personal record" means any information obtained or maintained by a state agency which refers to a person and which is declared exempt from public disclosure, confidential, or privileged under state or federal law.

(4) "Research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, by a scientific research professional associated with a bona fide scientific research organization, or by a graduate student currently enrolled in an advanced academic degree curriculum, with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(5) "Research record" means an item or grouping of information obtained for the purpose of research from or about a person or extracted for the purpose of research from a personal record.

(6) "State agency" means: (a) The department of social and health services; (b) the department of corrections; ((and)) (c) an institution of higher education as defined in RCW 28B.10.016; or (d) the department of health.

Sec. 208. Section 1, chapter 243, Laws of 1984 and RCW 43.20.025 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(2) "Council" means the health care access and cost control council.

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

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

(5) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

((3)) (6) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(7) "State board" means the state board of health created under chapter 43.20 RCW.

***Sec. 209. Section 43.20.030, chapter 8, Laws of 1965 as last amended by section 2, chapter 243, Laws of 1984 and by section 75, chapter 287, Laws of 1984 and RCW 43.20.030 are each reenacted and amended to read as follows:**

The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, an elected city official who is a member of a local health board, an elected county official who is a member of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department ((of social and health services)) shall provide necessary technical staff support to the board. The board ((may)) shall employ an executive director, two additional staff, and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

***Sec. 209 was vetoed, see message at end of chapter.**

Sec. 210. Section 43.20.050, chapter 8, Laws of 1965 as last amended by section 1, chapter 213, Laws of 1985 and RCW 43.20.050 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of ((public)) health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and

professional involvement in all health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the health forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to section 107 of this act and recommendations from the council;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the administrator of the basic health plan, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by June 1 of each even-numbered year for adoption by the governor. The governor, no later than September 1 of that year, shall approve, modify, or disapprove the state health report.

(c) In fulfilling its responsibilities under this subsection, the state board shall create ad hoc committees or other such committees of limited duration as necessary. Membership should include legislators, providers, consumers, bioethicists, medical economics experts, legal experts, purchasers, and insurers, as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules and regulations for the protection of water supplies for domestic use, and such other uses as may affect the public health, and shall adopt standards and procedures governing the design, construction and operation of water supply, treatment, storage, and distribution facilities, as well as the quality of water delivered to the ultimate consumer;

(b) Adopt rules and regulations and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules and regulations controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules and regulations for the imposition and use of isolation and quarantine; ~~((and))~~

(e) Adopt rules and regulations for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules and regulations governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(4) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules and regulations adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(5) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

Sec. 211. Section 1, chapter 18, Laws of 1970 ex. sess. as amended by section 60, chapter 141, Laws of 1979 and RCW 43.20A.010 are each amended to read as follows:

The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in ~~((the department of health,))~~ the department of public assistance, the department of institutions, the veterans' rehabilitation council and the division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the

department, leaving specific details of its internal organization and management to those charged with its administration.

Sec. 212. Section 3, chapter 18, Laws of 1970 ex. sess. as amended by section 62, chapter 141, Laws of 1979 and RCW 43.20A.030 are each amended to read as follows:

There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in ~~((the department of health;))~~ the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs.

Sec. 213. Section 6, chapter 18, Laws of 1970 ex. sess. as amended by section 64, chapter 141, Laws of 1979 and RCW 43.20A.060 are each amended to read as follows:

The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of ~~((health;))~~ public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education.

Sec. 214. Section 2, chapter 189, Laws of 1971 ex. sess. as last amended by section 1, chapter 259, Laws of 1984 and RCW 43.20A.360 are each amended to read as follows:

(1) The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint state-wide committees or councils in the following subject areas: (a) Health facilities; (b) ~~((radiation control; (c)))~~ children and youth services; ~~((f))~~ (c) blind services; ~~((e))~~ (d) medical and health care; ~~((f))~~ (e) drug abuse and alcoholism; ~~((g))~~ (f) social services; ~~((h))~~ (g) economic services; ~~((i))~~ (h) vocational services; ~~((j))~~ (i) rehabilitative services; ~~((k) public health services;))~~ and on such other subject matters as are or come within the department's responsibilities. The secretary shall appoint

committees or councils advisory to the department in each service delivery region to be designated by the secretary. The state-wide and the regional councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

~~((3))~~ (2) Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Members of regional advisory committees may, in the discretion of the secretary, be paid the same travel expenses as set forth above.

Sec. 215. Section 7, chapter 102, Laws of 1967 ex. sess. as amended by section 57, chapter 141, Laws of 1979 and RCW 43.20A.660 are each amended to read as follows:

(1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter ~~((43.20 RCW or chapter))~~ 43.20A RCW, or regulations promulgated ~~((under them))~~ thereunder, 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 chapter ~~((43.20 RCW or chapter))~~ 43.20A RCW is reported by the secretary to the prosecuting 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 views to the secretary, either orally or in writing, with regard to such contemplated proceeding.

Sec. 216. Section 2, chapter 201, Laws of 1982 as amended by section 6, chapter 75, Laws of 1987 and RCW 43.20B.110 are each amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. ~~((Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro-rata share of the cost of licensure and inspection, if appropriate.))~~ The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

(4) For fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, in accordance with sections 263 and 319 of this act.

Sec. 217. Section 17, chapter 62, Laws of 1970 ex. sess. as last amended by section 15, chapter 36, Laws of 1988 and RCW 43.21A.170 are each amended to read as follows:

There is hereby created an ecological commission. The commission shall consist of seven members to be appointed by the governor from the electors of the state who shall have a general knowledge of and interest in environmental matters. No persons shall be eligible for appointment who hold any other state, county or municipal elective or appointive office.

(a) One public member shall be a representative of organized labor.

(b) One public member shall be a representative of the business community.

(c) One public member shall be a representative of the agricultural community.

(d) Four persons representing the public at large.

The members of the initial commission shall be appointed within thirty days after July 1, 1970. Of the members of the initial commission, two shall be appointed for terms ending June 30, 1974, two shall be appointed for terms ending on June 30, 1973, two shall be appointed for terms ending on June 30, 1972, and one shall be appointed for a term ending June 30, 1971. Thereafter, each member of the commission shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the same manner as the original appointments. Each member of the commission shall continue in office until his successor is appointed. No member shall be appointed for more than two consecutive terms. The chairman of the commission shall be appointed from the members by the governor.

The governor may remove any commission member for cause giving him a copy of the charges against him, and an opportunity of being publicly heard in person, or by counsel in his own defense. There shall be no right of review in any court whatsoever. The director or administrator, or a designated representative, of each of the following state agencies:

- (1) The department of agriculture;
- (2) The department of trade and economic development;
- (3) The department of fisheries;
- (4) The department of wildlife;
- (5) The department of ~~((social and health services))~~ health;
- (6) The department of natural resources; and

(7) The state parks and recreation commission shall be given notice of and may attend all meetings of the commission and shall be given full opportunity to examine and be heard on all proposed orders, regulations or recommendations.

Sec. 218. Section 4, chapter 270, Laws of 1983 as amended by section 1, chapter 279, Laws of 1988 and RCW 43.21A.445 are each amended to read as follows:

The department of ecology, the department of natural resources, the department of ~~((social and health services))~~ health, and the oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of ~~((social and health services))~~ health and natural resources and the oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of ~~((social and health services))~~ health and natural resources and the oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein.

Sec. 219. Section 4, chapter 19, Laws of 1983 1st ex. sess. as amended by section 5, chapter 161, Laws of 1984 and by section 91, chapter 287, Laws of 1984 and RCW 43.200.040 are each reenacted and amended to read as follows:

(1) There is hereby created a nuclear waste board. The board shall consist of the following members: The chairman of the advisory council who shall also serve as chairman of the review board, the director of ecology or the director's designee, the director of the energy office or the director's designee, the commissioner of public lands or the commissioner's designee, the secretary of ~~((social and health services))~~ health or the secretary's designee, the chairman of the energy facility site evaluation council or the chairman's designee, the director of the Washington state water research center or the director's designee, four members of the state senate, appointed by the president of the senate, and four members of the house of representatives, appointed by the speaker, who shall be selected from each of the caucuses in each house, but no more than two members of each house shall be of the same political party. Legislative members shall be ex officio non-voting members of the board and shall serve while members of the legislature, at the pleasure of the appointing officer.

(2) Nonlegislative members shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120. The legislature shall seek reimbursement from available sources, including the federal government, for legislative expenditures incurred pursuant to the provisions of this chapter.

Sec. 220. Section 2, chapter 249, Laws of 1983 as last amended by section 32, chapter 245, Laws of 1988 and RCW 48.21A.090 are each amended to read as follows:

(1) Every insurer entering into or renewing extended health insurance governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapters 70.126 and 70.127 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed ~~((by the department of social and health services))~~ under chapter 70.127 RCW;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 221. Section 2, chapter 56, Laws of 1984 as amended by section 79, chapter 150, Laws of 1987 and RCW 48.42.070 are each amended to read as follows:

Every person or organization which seeks sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. Copies of the report shall be sent to the state department of health (~~((coordinating council))~~) for review and comment. ~~The state department of health ((coordinating council, in addition to the duties specified in RCW 70.38.065;))~~ shall make recommendations based on the report to the extent requested by the legislative committees.

Sec. 222. Section 3, chapter 249, Laws of 1983 as last amended by section 33, chapter 245, Laws of 1988 and RCW 48.44.320 are each amended to read as follows:

(1) Every health care service contractor entering into or renewing a group health care service contract governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapters 70.126 and 70.127 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed ~~((by the department of social and health services))~~ under chapter 70.127 RCW;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 223. Section 5, chapter 290, Laws of 1975 1st ex. sess. as amended by section 3, chapter 106, Laws of 1983 and RCW 48.46.040 are each amended to read as follows:

~~((After January 1, 1976,))~~ The commissioner shall issue a certificate of registration to the applicant within sixty days of such filing unless he notifies the applicant within such time that such application is not complete and the reasons therefor; or that he is not satisfied that:

(1) The basic organizational document of the applicant permits the applicant to conduct business as a health maintenance organization;

(2) The organization has demonstrated the intent and ability to assure that comprehensive health care services will be provided in a manner to assure both their availability and accessibility;

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to its enrolled participants. In making this determination, the commissioner shall consider among other relevant factors:

(a) Any agreements with an insurer, a medical or hospital service bureau, a government agency or any other organization paying or insuring payment for health care services;

(b) Any agreements with providers for the provision of health care services; and

(c) Any arrangements for liability and malpractice insurance coverage;

(4) The procedures for offering health care services and offering or terminating contracts with enrolled participants are reasonable and equitable in comparison with prevailing health insurance subscription practices and health maintenance organization enrollment procedures; and, that

(5) Procedures have been established to:

(a) Monitor the quality of care provided by such organization, including, as a minimum, procedures for internal peer review;

(b) Resolve complaints and grievances initiated by enrolled participants in accordance with RCW 48.46.010 and 48.46.100;

(c) Offer enrolled participants an opportunity to participate in matters of policy and operation in accordance with RCW 48.46.020(7) and 48.46.070.

No person to whom a certificate of registration has not been issued, except a health maintenance organization certified by the secretary of the department of health, education and welfare, pursuant to Public Law 93-222 or its successor, shall use the words "health maintenance organization" or the initials "HMO" in its name, contracts, or literature(~~(-PROVIDED HOWEVER, That))~~). Persons who are contracting with, operating in association with, recruiting enrolled participants for, or otherwise authorized by a health maintenance organization possessing a certificate of registration to act on its behalf may use the terms "health maintenance organization" or "HMO" for the limited purpose of denoting or explaining their relationship to such health maintenance organization.

The department of (~~(social and health services)~~) health, at the request of the insurance commissioner, shall inspect and review the facilities of every applicant health maintenance organization to determine that such facilities are reasonably adequate to provide the health care services offered in their contracts. If the commissioner has information to indicate that such facilities fail to continue to be adequate to provide the health care services offered, the department of (~~(social and health services)~~) health, upon request of the insurance commissioner, shall reinspect and review the facilities and report to the insurance commissioner as to their adequacy or inadequacy.

Sec. 224. Section 1, chapter 60, Laws of 1975-'76 2nd ex. sess. as amended by section 64, chapter 331, Laws of 1987 and RCW 68.50.280 are each amended to read as follows:

In any case where a patient is in need of corneal tissue for a transplantation, the county coroner, or county medical examiner or designee,

may provide corneal tissue, from decedents under his((f)) or her jurisdiction, upon the request of an eye bank approved and authorized to make such requests by the secretary of the ~~((department of social and health services))~~ department of health, subject to the following conditions:

- (1) Ready identification of the decedent is impossible, or
- (2) A reasonable effort to obtain such consent as is required under RCW 68.50.350 is made, within the time period during which corneal tissue is a viable transplant, and no objection by the next of kin is known, and
- (3) Removal of the cornea for transplantation will not interfere with the subsequent course of an investigation or autopsy or alter the post mortem facial appearance of the decedent.

Sec. 225. Section 4, chapter 112, Laws of 1973 1st ex. sess. and RCW 69.04.915 are each amended to read as follows:

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 other duties the director, in consultation with the ~~((director))~~ secretary of the department of ~~((social and health services))~~ 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.

Sec. 226. Section 71.12.460, chapter 25, Laws of 1959 as amended by section 133, chapter 141, Laws of 1979 and RCW 71.12.460 are each amended to read as follows:

No person, association, or corporation, shall establish or keep, for compensation or hire, an establishment as defined in this chapter without first having obtained a license therefor from the department of ~~((social and health services))~~ health, and having paid the license fee provided in this chapter. Any person who carries on, conducts, or attempts to carry on or conduct an establishment as defined in this chapter without first having obtained a license from the department of ~~((social and health services))~~ health, as in this chapter provided, is guilty of a misdemeanor and on conviction thereof shall be punished by imprisonment in a county jail not exceeding six months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment. The managing and executive officers of any corporation violating the provisions of this chapter shall be liable under the provisions of this chapter in the same manner and to the same effect as a private individual violating the same.

Sec. 227. Section 71.12.480, chapter 25, Laws of 1959 as amended by section 134, chapter 141, Laws of 1979 and RCW 71.12.480 are each amended to read as follows:

The department of ~~((social and health services))~~ health shall not grant any such license until it has made an examination of the premises proposed to be licensed and is satisfied that they are substantially as described, and

are otherwise fit and suitable for the purposes for which they are designed to be used, and that such license should be granted.

Sec. 228. Section 1, chapter 224, Laws of 1959 as last amended by section 122, chapter 266, Laws of 1986 and RCW 71.12.485 are each amended to read as follows:

Standards for fire protection and the enforcement thereof, with respect to all establishments to be licensed hereunder, shall be the responsibility of the director of community development, through the director of fire protection, who shall adopt such recognized standards as may be applicable to such establishments for the protection of life against the cause and spread of fire and fire hazards. The department of (~~((social and health services))~~) health, upon receipt of an application for a license, or renewal of a license, shall submit to the director of community development, through the director of fire protection, in writing, a request for an inspection, giving the applicant's name and the location of the premises to be licensed. Upon receipt of such a request, the director of community development, through the director of fire protection, or his or her deputy shall make an inspection of the establishment to be licensed, and if it is found that the premises do not comply with the required safety standards and fire regulations as promulgated by the director of community development, through the director of fire protection, he or she shall promptly make a written report to the establishment and the department of (~~((social and health services))~~) health as to the manner and time allowed in which the premises must qualify for a license and set forth the conditions to be remedied with respect to fire regulations. The department of (~~((social and health services))~~) health, applicant or licensee shall notify the director of community development, through the director of fire protection, upon completion of any requirements made by him or her, and the state fire marshal or his or her deputy shall make a reinspection of such premises. Whenever the establishment to be licensed meets with the approval of the director of community development, through the director of fire protection, he or she shall submit to the department of (~~((social and health services))~~) health a written report approving same with respect to fire protection before a full license can be issued. The director of community development, through the director of fire protection, shall make or cause to be made inspections of such establishments at least annually. The department of (~~((social and health services))~~) health shall not license or continue the license of any establishment unless and until it shall be approved by the director of community development, through the director of fire protection, as herein provided.

In cities which have in force a comprehensive building code, the provisions of which are determined by the director of community development, through the director of fire protection, to be equal to the minimum standards of the director of community development, through the director of fire

protection, for such establishments, the chief of the fire department, provided the latter is a paid chief of a paid fire department, shall make the inspection with the director of community development, through the director of fire protection, or his or her deputy, and they shall jointly approve the premises before a full license can be issued.

Sec. 229. Section 71.12.490, chapter 25, Laws of 1959 as last amended by section 20, chapter 75, Laws of 1987 and RCW 71.12.490 are each amended to read as follows:

All licenses issued under the provisions of this chapter shall expire on a date to be set by the department of ~~((social and health services: PROVIDED, That))~~ health. No license issued pursuant to this chapter shall exceed thirty-six months in duration. Application for renewal of the license, accompanied by the necessary fee as established by the department of ~~((social and health services under RCW 43.20B.110))~~ health under section 263 of this act, shall be filed with that department, not less than thirty days prior to its expiration and if application is not so filed, the license shall be automatically canceled.

Sec. 230. Section 71.12.500, chapter 25, Laws of 1959 as amended by section 136, chapter 141, Laws of 1979 and RCW 71.12.500 are each amended to read as follows:

The department of ~~((social and health services))~~ health may at any time examine and ascertain how far a licensed establishment is conducted in compliance with the license therefor. If the interests of the patients of the establishment so demand, the department may, for just and reasonable cause, suspend or revoke any such license after notice and hearing.

Sec. 231. Section 71.12.520, chapter 25, Laws of 1959 as amended by section 137, chapter 141, Laws of 1979 and RCW 71.12.520 are each amended to read as follows:

Each such visit may include an inspection of every part of each establishment. The representatives of the department of ~~((social and health services))~~ health may make an examination of all records, methods of administration, the general and special dietary, the stores and methods of supply, and may cause an examination and diagnosis to be made of any person confined therein. The representatives of the department may examine to determine their fitness for their duties the officers, attendants, and other employees, and may talk with any of the patients apart from the officers and attendants.

Sec. 232. Section 71.12.530, chapter 25, Laws of 1959 as amended by section 138, chapter 141, Laws of 1979 and RCW 71.12.530 are each amended to read as follows:

The representatives of the department of ~~((social and health services))~~ health may, from time to time, at times and places designated by the department, meet the managers or responsible authorities of such establishments in conference, and consider in detail all questions of management and improvement of the establishments, and may send to them, from time to time, written recommendations in regard thereto.

Sec. 233. Section 71.12.540, chapter 25, Laws of 1959 as amended by section 139, chapter 141, Laws of 1979 and RCW 71.12.540 are each amended to read as follows:

The authorities of each establishment as defined in this chapter shall place on file in the office of the establishment the recommendations made by the department of ~~((social and health services))~~ health as a result of such visits, for the purpose of consultation by such authorities, and for reference by the department representatives upon their visits. Every such establishment shall keep records of every person admitted thereto as follows and shall furnish to the department, when required, the following data: Name, age, sex, marital status, date of admission, voluntary or other commitment, name of physician, diagnosis, and date of discharge.

Sec. 234. Section 71.12.640, chapter 25, Laws of 1959 as amended by section 140, chapter 141, Laws of 1979 and RCW 71.12.640 are each amended to read as follows:

The prosecuting attorney of every county shall, upon application by the department of social and health services, the department of health, or its authorized representatives, institute and conduct the prosecution of any action brought for the violation within his county of any of the provisions of this chapter.

Sec. 235. Section 3, chapter 245, Laws of 1979 ex. sess. and RCW 70.123.030 are each amended to read as follows:

The department of social and health services, in consultation with the state department of health, and individuals or groups having experience and knowledge of the problems of victims of domestic violence, shall:

(1) Establish minimum standards for shelters applying for grants from the department under this chapter. Classifications may be made dependent upon size, geographic location, and population needs;

(2) Receive grant applications for the development and establishment of shelters for victims of domestic violence;

(3) Distribute funds, within forty-five days after approval, to those shelters meeting departmental standards;

(4) Evaluate biennially each shelter receiving departmental funds for compliance with the established minimum standards; and

(5) Review the minimum standards each biennium to ensure applicability to community and client needs.

NEW SECTION. Sec. 236. A new section is added to chapter 15.36 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 237. A new section is added to chapter 18.104 RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 238. A new section is added to chapter 19.32 RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 239. A new section is added to chapter 28A.31 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 240. A new section is added to chapter 43.83B RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 241. A new section is added to chapter 43.99D RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 242. A new section is added to chapter 43.99E RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 243. A new section is added to chapter 70.05 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 244. A new section is added to chapter 70.08 RCW to read as follows:

The powers and duties of the secretary of social and health services under this chapter shall be performed by the secretary of health.

NEW SECTION. Sec. 245. A new section is added to chapter 70.12 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 246. A new section is added to chapter 70.22 RCW to read as follows:

The powers and duties of the secretary of social and health services under this chapter shall be performed by the secretary of health.

NEW SECTION. Sec. 247. A new section is added to chapter 70.24 RCW to read as follows:

The powers and duties of the department of social and health services, the department of licensing, and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 248. A new section is added to chapter 70.40 RCW to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under this chapter shall be performed by the department of health and the secretary of health.

NEW SECTION. Sec. 249. A new section is added to chapter 70.41 RCW to read as follows:

The powers and duties of the department of social and health services under this chapter shall be performed by the department of health.

NEW SECTION. Sec. 250. A new section is added to chapter 70.54 RCW to read as follows:

The powers and duties of the secretary of social and health services under this chapter shall be performed by the secretary of health.

Sec. 251. Section 43.20.010, chapter 8, Laws of 1965 as last amended by section 2, chapter 213, Laws of 1985 and RCW 43.20A.600 are each amended to read as follows:

The secretary of ~~((social and health services))~~ health shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health

has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of ~~((social and health services))~~ the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of ~~((social and health services))~~ health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it;

(8) Cause to be made from time to time, ~~((inspections of the sanitary and health conditions existing at the state institutions;))~~ Personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of ~~((social and health services))~~ health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

(10) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department.

NEW SECTION. Sec. 252. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the secretary together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by section 30(1), chapter — (EHB 1358), Laws of 1989.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by section 30(2), chapter — (EHB 1358), Laws of 1989.

Sec. 253. Section 43.20.060, chapter 8, Laws of 1965 as last amended by section 50, chapter 141, Laws of 1979 and RCW 43.20A.615 are each amended to read as follows:

In order to receive the assistance and advice of local health officers in carrying out ~~((his))~~ the secretary's duties and responsibilities, the secretary of ~~((social and health services))~~ health shall hold annually a conference of local health officers, at such place as ~~((he))~~ the secretary deems convenient, for the discussion of questions pertaining to public health, sanitation, and other matters pertaining to the duties and functions of the local health departments, which shall continue in session for such time not exceeding three days as the secretary deems necessary.

The health officer of each county, district, municipality and county-city department shall attend such conference during its entire session, and receive therefor his or her actual and necessary traveling expenses, to be paid by his or her county, district, and municipality or county-city department ~~((:PROVIDED, That))~~. No claim for such expenses shall be allowed or paid unless it is accompanied by a certificate from the secretary of ~~((social and health services))~~ health attesting the attendance of the claimant.

Sec. 254. Section 43.20.070, chapter 8, Laws of 1965 as last amended by section 51, chapter 141, Laws of 1979 and RCW 43.20A.620 are each amended to read as follows:

The secretary of ~~((social and health services))~~ health shall have charge of the state system of registration of births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance, and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof.

Sec. 255. Section 43.20.080, chapter 8, Laws of 1965 as amended by section 2, chapter 26, Laws of 1967 and RCW 43.20A.625 are each amended to read as follows:

The state registrar of vital statistics shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of Title 70 RCW; and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other blanks shall be used than those supplied by the state registrar. ~~((He))~~ The state registrar shall carefully examine the certificates received monthly from the local registrars,

county auditors, and clerks of the court and, if any are incomplete or unsatisfactory, ((he)) the state registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory, and shall cause such further information to be incorporated in or attached to and filed with the certificate. ((He)) The state registrar shall furnish, arrange, bind, and make a permanent record of the certificate in a systematic manner, and shall prepare and maintain a comprehensive index of all births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance registered.

Sec. 256. Section 3, chapter 102, Laws of 1967 ex. sess. as amended by section 53, chapter 141, Laws of 1979 and RCW 43.20A.640 are each amended to read as follows:

The secretary on his or her own motion or upon the complaint of any interested party, may investigate, examine, sample or inspect any article or condition constituting a threat to the public health including, but not limited to, outbreaks of communicable diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health. When not otherwise available, the department may purchase such samples or specimens as may be necessary to determine whether or not there exists a threat to the public health. In furtherance of any such investigation, examination or inspection, the secretary or ((his)) the secretary's authorized representative may examine that portion of the ledgers, books, accounts, memorandums, and other documents and other articles and things used in connection with the business of such person relating to the actions involved.

For purposes of such investigation, the secretary or ((his)) the secretary's representative shall at all times have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities or any other place. The secretary may also, for the purposes of such investigation, issue subpoenas to compel the attendance of witnesses, as provided for in ((RCW 43.20A.605, and/or)) section 252 of this act or the production of books and documents anywhere in the state.

Sec. 257. Section 4, chapter 102, Laws of 1967 ex. sess. as amended by section 54, chapter 141, Laws of 1979 and RCW 43.20A.645 are each amended to read as follows:

Pending the results of an investigation provided for under RCW 43.20A.640 (as recodified by this act), the secretary may issue an order prohibiting the disposition or sale of any food or other item involved in the investigation((~~:-PROVIDED, That~~)). The order of the secretary shall not be effective for more than fifteen days without the commencement of a legal action as provided for under RCW 43.20A.650 (as recodified by this act).

Sec. 258. Section 5, chapter 102, Laws of 1967 ex. sess. as amended by section 55, chapter 141, Laws of 1979 and RCW 43.20A.650 are each amended to read as follows:

The secretary of ~~((social and health services))~~ health may bring an action to enjoin a violation or the threatened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of ~~((social and health services))~~ health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county.

Sec. 259. Section 6, chapter 102, Laws of 1967 ex. sess. as amended by section 56, chapter 141, Laws of 1979 and RCW 43.20A.655 are each amended to read as follows:

Upon the request of a local health officer, the secretary of ~~((social and health services))~~ health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington.

Sec. 260. Section 14, chapter 102, Laws of 1967 ex. sess. as amended by section 59, chapter 141, Laws of 1979 and RCW 43.20A.665 are each amended to read as follows:

Nothing in chapter~~((s))~~ 43.20 ~~((and 43.20A RCW and RCW 70.01-010))~~ or 43.— RCW (as created by this act), or section 264 of this act shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to alleviate human ailments, sickness or disease, in accordance with the tenets and practice of the Church of Christ, Scientist, nor shall anything in chapters 43.20 ~~((and 43.20A RCW and RCW 70.01-010))~~, 43.— RCW (as created by this act), or section 264 of this act be deemed to prohibit a person so relying who is inflicted with a contagious or communicable disease from being isolated or quarantined in a private place of his own choice, provided, it is approved by the local health officer, and all laws, rules and regulations governing control, sanitation, isolation and quarantine are complied with.

Sec. 261. Section 3, chapter 147, Laws of 1974 ex. sess. as last amended by section 103, chapter 287, Laws of 1984 and RCW 70.37.030 are each amended to read as follows:

There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington health care facilities authority. The authority shall constitute a political subdivision of the state established as an instrumentality exercising essential governmental functions. The authority is a "public body" within the meaning of RCW 39.53.010, as now or hereafter amended. The authority shall consist of the

governor who shall serve as chairman, the lieutenant governor, the insurance commissioner, ~~((the chairman of the Washington state hospital commission))~~ the secretary of health, and one member of the public who shall be appointed by the governor, subject to confirmation by the senate, on the basis of the member's interest or expertise in health care delivery, for a term expiring on the fourth anniversary of the date of appointment. In the event that any of the offices referred to shall be abolished the resulting vacancy on the authority shall be filled by the officer who shall succeed substantially to the powers and duties thereof. The members of the authority shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement, solely from the funds of the authority, for travel expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority shall constitute a quorum.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the authority. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence.

NEW SECTION. Sec. 262. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20 or 43.____ RCW (as created by this act), or regulations promulgated under them, 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 chapter 43.20 or 43.____ RCW (as created by this act) is reported by the secretary to the prosecuting 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 secretary, either orally or in writing, with regard to such contemplated proceeding.

NEW SECTION. Sec. 263. (1) The secretary shall charge fees to the licensee for obtaining a license. Municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

NEW SECTION. Sec. 264. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health.

Sec. 265. Section 6, chapter 172, Laws of 1967 as last amended by section 14, chapter 524, Laws of 1987 and RCW 74.15.060 are each amended to read as follows:

The secretary of (~~((social and health services))~~) health shall have the power and it shall be his duty:

In consultation with the children's services advisory committee and with the advice and assistance of persons representative of the various type agencies to be licensed, to develop minimum requirements pertaining to each category of agency established pursuant to chapter 74.15 RCW and RCW 74.13.031, necessary to promote the health of all persons residing therein.

The secretary of health or the city, county, or district health department designated by him shall have the power and the duty:

(1) To make or cause to be made such inspections and investigations of agencies(~~((; including investigation of alleged child abuse and neglect in accordance with chapter 26.44 RCW,))~~) as may be deemed necessary; and

(2) To issue to applicants for licenses hereunder who comply with the requirements adopted hereunder, a certificate of compliance, a copy of which shall be presented to the department of health before a license shall be issued, except that a provisional license may be issued as provided in RCW 74.15.120.

Sec. 266. Section 8, chapter 172, Laws of 1967 as last amended by section 124, chapter 266, Laws of 1986 and RCW 74.15.080 are each amended to read as follows:

All agencies subject to chapter 74.15 RCW and RCW 74.13.031 shall accord the department of social and health services, the secretary of health, the director of community development, and the director of fire protection, or their designees, the right of entrance and the privilege of access to and

inspection of records for the purpose of determining whether or not there is compliance with the provisions of chapter 74.15 RCW and RCW 74.13.031 and the requirements adopted thereunder.

NEW SECTION. Sec. 267. RCW 43.20A.600, 43.20A.615, 43.20A.620, 43.20A.625, 43.20A.640, 43.20A.645, 43.20A.650, 43.20A.655, and 43.20A.665 are each recodified as part of chapter 43. __ RCW as created by this act.

PART III

FUNCTIONS TRANSFERRED FROM THE DEPARTMENT OF LICENSING

NEW SECTION. Sec. 301. The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.26, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52A, 18.52B, 18.52C, 18.53, 18.54, 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, 18.72, 18.74, 18.78, 18.83, 18.84, 18.88, 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health.

***NEW SECTION.** Sec. 302. *(1) The presence of high quality health care professionals practicing in Washington is essential to meet the health care quality objectives of the state. The legislature recognizes that current licensure of professionals assures minimum competence at the time an individual is initially licensed. A concern remains whether the current system of licensure encourages and motivates health care professionals to strive for the best professional performance possible. The effectiveness of the current system of licensure on assuring consumer protection is unclear.*

(2) The secretary shall prepare a report with recommendations on the need for improvements in the current system of health care professional licensure or the need for an alternative system of quality assurance and consumer protection to replace or augment the state's current health professional licensure program. The report shall be submitted to the legislature and the governor no later than June 30, 1992, and shall include: (a) A survey of current health professional licensure programs in the United States, (b) an analysis of the impact of these regulatory and educational approaches on quality assurance and consumer protection, (c) an analysis of current licensure of health professionals in this state to assess its impact on quality assurance and consumer protection, (d) an evaluation of alternative approaches to licensure and their impact on quality assurance and consumer protection, and (e) an assessment of the costs of implementation of proposed alternatives.

*Sec. 302 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 303. There is created in the department an office of health consumer assistance. The office shall establish a state-wide hotline and shall assist and serve as an advocate for consumers who are complainants or witnesses in a licensing or disciplinary proceeding.

NEW SECTION. Sec. 304. The secretary and each of the professional licensing and disciplinary boards under the administration of the department shall enter into written operating agreements on administrative procedures with input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities. The agreements shall include, but not be limited to, the following provisions:

- (1) Administrative activities supporting the board's policies, goals, and objectives;
- (2) Development and review of the agency budget as it relates to the board; and
- (3) Board related personnel issues.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each fiscal year, and at other times upon written request by the secretary or the board.

The secretary shall report to the health care committees of the legislature, on or before February 28, 1990, on the implementation of the written operating agreement and the need, if any, for modification of this section.

Sec. 305. Section 59, chapter 279, Laws of 1984 and RCW 18.120.040 are each amended to read as follows:

Applicant groups shall submit a written report explaining the factors enumerated in RCW 18.120.030 to the legislative committees of reference, copies of which shall be sent to the state (~~((health coordinating council and the department of licensing))~~ board of health and the department of health for review and comment. The state (~~((health coordinating council, in addition to the duties specified in RCW 70.38.065,))~~ board of health and the department of health shall make recommendations based on the report submitted by applicant groups to the extent requested by the legislative committees.

Sec. 306. Section 61, chapter 150, Laws of 1987 and RCW 18.122.010 are each amended to read as follows:

The legislature takes note of the burgeoning number of bills proposed to regulate new health and health-related professions and occupations. The legislature further recognizes the number of allied health professions seeking independent practice. Potentially at least one hundred forty-five discrete health professions and occupations are recognized nationally, with at least two hundred fifty secondary job classifications. A uniform and streamlined

credentialing process needs to be established to permit the department of ((licensing)) health to administer the health professional regulatory programs in the most cost-effective, accountable, and uniform manner. The public interest will be served by establishing uniform administrative provisions for the regulated professions under the jurisdiction of the department of ((licensing)) health regulated after July 26, 1987.

Sec. 307. Section 62, chapter 150, Laws of 1987 and RCW 18.122.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) To "credential" means to license, certify, or register an applicant.

(2) "Department" means the department of ((licensing)) health.

(3) "((Director)) Secretary" means the ((director)) secretary of ((licensing)) health or the ((director's)) secretary's designee.

(4) "Health profession" means a profession providing health services regulated under the laws of this state and under which laws this statute is specifically referenced.

(5) "Credential" means the license, certificate, or registration issued to a person.

Sec. 308. Section 63, chapter 150, Laws of 1987 and RCW 18.122.030 are each amended to read as follows:

(1) The three levels of professional credentialing as defined in chapter 18.120 RCW are:

(a) Registration, which is the least restrictive, and requires formal notification of the department of ((licensing)) health identifying the practitioner, and does not require qualifying examinations;

(b) Certification, which is a voluntary process recognizing an individual who qualifies by examination and meets established educational prerequisites, and which protects the title of practice; and

(c) Licensure, which is the most restrictive and requires qualification by examination and educational prerequisites of a practitioner whose title is protected and whose scope of practice is restricted to only those licensed.

(2) No person may practice or represent oneself as a practitioner of a health profession by use of any title or description of services without being registered to practice by the department of ((licensing)) health, unless otherwise exempted by this chapter.

(3) No person may represent oneself as certified or use any title or description of services without applying for certification, meeting the required qualifications, and being certified by the department of ((licensing)) health, unless otherwise exempted by this chapter.

(4) No person may represent oneself as licensed, use any title or description of services, or engage in any practice without applying for licensure, meeting the required qualifications, and being licensed by the

department of (~~licensing~~) health, unless otherwise exempted by this chapter.

Sec. 309. Section 65, chapter 150, Laws of 1987 and RCW 18.122.050 are each amended to read as follows:

In addition to any other authority provided by law, the (~~director~~) secretary has the authority to:

(1) Adopt rules under chapter (~~34.04~~) 34.05 RCW necessary to implement this chapter;

(2) Establish all credentialing, examination, and renewal fees in accordance with (~~RCW 43.24.086~~) section 319 of this act;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Register any applicants, and to issue certificates or licenses to applicants who have met the education, training, and examination requirements for licensure or certification and to deny a credential to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of credentials based upon unprofessional conduct or impairment shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals credentialed under this chapter to serve as examiners for any practical examinations;

(6) Determine minimum education requirements and evaluate and designate those educational programs from which graduation will be accepted as proof of eligibility to take a qualifying examination for applicants for certification or licensure;

(7) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification or licensure;

(8) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination;

(9) Determine which states have credentialing requirements equivalent to those of this state, and issue credentials to individuals credentialed in those states without examinations;

(10) Define and approve any experience requirement for credentialing;

(11) Implement and administer a program for consumer education;

(12) Adopt rules implementing a continuing competency program;

(13) Maintain the official department record of all applicants and licensees; and

(14) Establish by rule the procedures for an appeal of an examination failure.

Sec. 310. Section 70, chapter 150, Laws of 1987 and RCW 18.122.100 are each amended to read as follows:

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

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

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

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the ~~((director))~~ secretary under ~~((RCW 43.24.086))~~ section 319 of this act for each subsequent examination. Upon failing four examinations, the ~~((director))~~ secretary may invalidate the original application and require such remedial education before the person may take future examinations.

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

Sec. 311. Section 71, chapter 150, Laws of 1987 and RCW 18.122.110 are each amended to read as follows:

Applications for credentialing shall be submitted on forms provided by the ~~((director))~~ secretary. The ~~((director))~~ secretary may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the ~~((director))~~ secretary under ~~((RCW 43.24.086))~~ section 319 of this act. The fee shall accompany the application.

Sec. 312. Section 2, chapter 279, Laws of 1984 as amended by section 2, chapter 259, Laws of 1986 and RCW 18.130.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Disciplining authority" means (a) the board of medical examiners, the board of dental examiners, and the board of chiropractic examiners with

respect to applicants for a license for the respective professions, (b) the medical disciplinary board, the dental disciplinary board, and the chiropractic disciplinary board with respect to holders of licenses for the respective professions, or (c) the agency or board 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.

(2) "Department" means the department of ~~((licensing))~~ health.

(3) "~~((Director))~~ Secretary" means the ~~((director))~~ secretary of ~~((licensing))~~ health or the ~~((director's))~~ secretary's designee.

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

(5) "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.

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

(7) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, to determine whether unprofessional conduct may have been committed.

(8) "Health agency" means city and county health departments and the department of ~~((social and health services))~~ health.

(9) "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.

Sec. 313. Section 23, chapter 279, Laws of 1984 as amended by section 5, chapter 505, Laws of 1987 and RCW 18.130.310 are each amended to read as follows:

Subject to RCW 40.07.040, the disciplinary 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. The report may include recommendations for improving the disciplinary process, including proposed legislation. The department ~~((of licensing))~~ shall develop a uniform report format.

Sec. 314. Section 43.24.020, chapter 8, Laws of 1965 as last amended by section 95, chapter 158, Laws of 1979 and RCW 43.24.020 are each amended to read as follows:

The director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions.

This shall include the administration of all laws pertaining to the regulation of securities and speculative investments.

Sec. 315. Section 12, chapter 168, Laws of 1983 as amended by section 7, chapter 467, Laws of 1987 and RCW 43.24.086 are each amended to read as follows:

~~((+))~~ It shall be the policy of the state of Washington that the cost of each professional, occupational or business licensing program be fully borne by the members of that profession, occupation or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations or businesses, except for health professions, administered by the business and professions administration in the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter ~~((34.04))~~ 34.05 RCW.

~~((2))~~ Notwithstanding subsection (1) of this section, no fee for midwives, as licensed in chapter 18.50 RCW may be increased by more than one hundred dollars or fifty percent, whichever is greater, during any biennium)) For fees associated with the licensing or regulation of health professions administered by the department of health, see section 319 of this act.

Sec. 316. Section 4, chapter 319, Laws of 1977 ex. sess. as last amended by section 6, chapter 505, Laws of 1987 and RCW 19.02.040 are each amended to read as follows:

(1) There is hereby created a board of review to provide policy direction to the department of licensing as it establishes and operates the business registration and licensing system. The board of review shall be composed of the following officials or their designees:

- (a) Director, department of revenue;
- (b) Director, department of labor and industries;
- (c) Commissioner, employment security department;
- (d) Director, department of agriculture;
- (e) Director, department of trade and economic development;
- (f) Director, department of licensing;
- (g) Director, office of financial management;
- (h) Chairman, liquor control board;
- (i) Secretary, department of social and health services;
- (j) Secretary, department of health;

(k) Secretary of state;

~~((f*))~~ (l) The governor; and

~~((t))~~ (m) As ex officio members:

(i) The president of the senate or the president's designee;

(ii) The speaker of the house or the speaker's designee; and

(iii) A representative of a recognized state-wide organization of employers, representing a large cross section of the Washington business community, to be appointed by the governor.

(2) The governor shall be the chairperson. In the governor's absence, the secretary of state shall act as chairperson.

(3) The board shall meet at the call of the chairperson at least semi-annually or at the call of a member to:

(a) Establish interagency policy guidelines for the system;

(b) Review the findings, status, and problems of system operations and recommend courses of action;

(c) Receive reports from industry and agency task forces;

(d) Determine in questionable cases whether a specific license is to be included in the master license system;

(e) Review and make recommendations on rules proposed by the business license center and any amendments to or revisions of the center's rules.

Sec. 317. Section 5, chapter 319, Laws of 1977 ex. sess. as last amended by section 38, chapter 466, Laws of 1985 and RCW 19.02.050 are each amended to read as follows:

(1) The legislature hereby directs the full participation by the following agencies in the implementation of this chapter:

(a) Department of agriculture;

(b) Secretary of state;

(c) Department of social and health services;

(d) Department of revenue;

(e) Department of fisheries;

(f) Department of employment security;

(g) Department of labor and industries;

(h) Department of trade and economic development;

(i) Liquor control board;

(j) ~~((Board of pharmacy))~~ Department of health;

(k) Department of licensing;

(l) Utilities and transportation commission; and

(m) Other agencies as determined by the governor.

Sec. 318. Section 11, chapter 168, Laws of 1983 and RCW 43.24.015 are each amended to read as follows:

In order to provide liaison with the department of ~~((licensing))~~ health, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction

of the department, and to better represent the public interest, the ((director)) secretary, or a designee appointed by the ((director)) secretary, shall serve as an ex officio member of every health professional licensure ((and/or)) or disciplinary board established under Title 18 RCW under the administrative authority of the department of ((licensing)) health. The ((director)) secretary shall have no vote unless otherwise authorized by law.

NEW SECTION. Sec. 319. (1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(2) Notwithstanding subsection (1) of this section, no fee for midwives, as licensed in chapter 18.50 RCW may be increased by more than one hundred dollars or fifty percent, whichever is greater during any biennium.

NEW SECTION. Sec. 320. The secretary may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of health, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, 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 committee. This authority is intended to provide for more efficient, economical, and effective examinations.

NEW SECTION. Sec. 321. Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after

being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period.

NEW SECTION. Sec. 322. Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the secretary of health may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the secretary determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period.

NEW SECTION. Sec. 323. Funeral directors and embalmers, licensed under chapter 18.39 RCW, are subject to the provisions of chapter 18.130 RCW under the administration of the department of licensing. The department of licensing shall review the statutes authorizing the regulation of funeral directors and embalmers, and recommend any changes necessary by January 1, 1990.

NEW SECTION. Sec. 324. RCW 43.24.015 is recodified as part of chapter 43.— RCW as created by this act.

PART IV FUNCTIONS TRANSFERRED FROM THE BOARD OF PHARMACY

Sec. 401. Section 17, chapter 90, Laws of 1979 as last amended by section 5, chapter 153, Laws of 1984 and RCW 18.64.044 are each amended to read as follows:

(1) A shopkeeper registered ((or exempt from registration)) as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer. ~~((Shopkeepers with fifteen or fewer drugs shall be exempt from the registration requirements of this section and shall not be required to pay any fees required by this section, but shall be considered shopkeepers for any other purposes under chapter 18.64 RCW.))~~

(2) Every shopkeeper not a licensed pharmacist, desiring to secure the benefits and privileges of this section, is hereby required to register as a shopkeeper through the master license system, and he or she shall pay the fee determined by the ((board)) secretary for registration, and on a date to be determined by the ((board)) secretary thereafter the fee determined by

the ~~((board))~~ secretary for renewal of the registration; and shall at all times keep said registration or the current renewal thereof conspicuously exposed in the shop to which it applies. In event such shopkeeper's registration is not renewed by the master license expiration date, no renewal or new registration shall be issued except upon payment of the registration renewal fee and the master license delinquency fee under chapter 19.02 RCW. This registration fee shall not authorize the sale of legend drugs or controlled substances.

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

(4) Any shopkeeper 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, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

Sec. 402. Section 1, chapter 28, Laws of 1939 as amended by section 15, chapter 90, Laws of 1979 and RCW 18.64.245 are each amended to read as follows:

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 ~~((five))~~ 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 record-keeping requirements for controlled substances must be complied with. Such record of prescriptions shall be for confidential use in the pharmacy, only(~~:(PROVIDED, That))~~). The record of prescriptions shall be open for inspection by the board of pharmacy or any officer of the law, who is authorized to enforce chapter 18.64, 69.41, or 69.50 RCW.

Sec. 403. Section 1, chapter 9, Laws of 1972 ex. sess. as last amended by section 10, chapter 153, Laws of 1984 and RCW 18.64.080 are each amended to read as follows:

(1) The ~~((state board of pharmacy))~~ 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 board may by regulation require, and who—

(a) Is at least eighteen years of age ~~((and is a citizen of the United States, an alien in an educational pharmacy graduate or residency program for the period of the program, or a resident alien))~~;

(b) Has satisfied the board 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 board of pharmacy;

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

(e) Has satisfactorily passed the necessary examinations ~~((given))~~ approved by the board and administered by the department.

(2) The ~~((state board of pharmacy))~~ 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 board. The ~~((said))~~ examination shall be determined by the board. 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 board. The applicant must pay the examination fee determined by the ~~((board))~~ secretary for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the board and the provisions of this chapter, the ~~((board))~~ 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 ~~((state board of pharmacy))~~ department an application for registration as a pharmacy intern in which ~~((said))~~ application he or she shall be required to furnish such information as the board may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the ~~((board))~~ department a fee to be determined by the ~~((board))~~ secretary. All certificates issued to pharmacy interns shall be valid for a period to be determined by the board, but in no instance shall the certificate be valid if the individual is no longer making timely progress toward graduation, provided however, the board 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 board, and shall include such instruction in the practice of pharmacy as the board by regulation shall prescribe.

(5) The ~~((board))~~ 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~~((:-PROVIDED, That))~~. The ~~((said))~~ person shall produce evidence satisfactory to the ~~((board))~~ 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~~((:-PROVIDED-FURTHER, That))~~. The state in which ~~((said))~~ 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 ~~((board))~~ department.

(6) The ~~((board))~~ 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.

Sec. 404. Section 15, chapter 38, Laws of 1963 as amended by section 14, chapter 90, Laws of 1979 and RCW 18.64.165 are each amended to read as follows:

The board shall have the power to refuse, suspend, or revoke the license of any manufacturer, wholesaler, pharmacy, shopkeeper, itinerant vendor, ~~((or))~~ peddler, poison distributor, 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 board of pharmacy or has been convicted of a felony.

NEW SECTION. Sec. 405. A new section is added to chapter 69.41 RCW to read as follows:

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.

NEW SECTION. Sec. 406. A new section is added to chapter 69.41 RCW to read as follows:

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 42.17 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 42.17 RCW.

Sec. 407. Section 2, chapter 107, Laws of 1987, section 1, chapter 337, Laws of 1987, section 16, chapter 370, Laws of 1987, section 1, chapter 404, Laws of 1987, and section 10, chapter 411, Laws of 1987 and RCW 42.17.310 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, welfare recipients, prisoners, probationers, or parolees.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 82.32.330 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property(~~(-PROVIDED, That)).~~ If at the time the complaint is filed the complainant indicates a desire for disclosure or nondisclosure, such desire shall govern(~~(-PROVIDED, FURTHER, That)).~~ However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale

of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 53.31 RCW.

(p) Financial disclosures filed by private vocational schools under chapter 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses during application for loans or program services provided by chapters 43.31, 43.63A, and 43.168 RCW.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land

developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) ~~((Except as provided under section 2 of this 1987 act [1987 c 404 § 2],))~~ All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses and residential telephone numbers of employees or volunteers of a public agency which are held by the agency in personnel records, employment or volunteer rosters, or mailing lists of employees or volunteers.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers.

(w) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(x) Information obtained by the board of pharmacy and its representatives as provided in section 406 of this act.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

Sec. 408. Section 2, chapter 186, Laws of 1973 1st ex. sess. and RCW 69.41.020 are each amended to read as follows:

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 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 section 405 of this act.

Sec. 409. Section 3, chapter 98, Laws of 1935 as last amended by section 2, chapter 153, Laws of 1984 and RCW 18.64.005 are each amended to read as follows:

The board shall:

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

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

(3) ~~((Examine, inspect, and investigate all applicants for license as))~~ Establish the qualifications for licensure of pharmacists or pharmacy interns ~~((and grant licenses to all applicants whom it shall judge to be properly qualified))~~;

(4) ~~((Establish reasonable fees for licenses, examinations, and services for other agencies sufficient to cover the cost of the operations of the board. In cases where there are unanticipated demands for services the board 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 board 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;~~

(5) ~~Employ an executive officer, inspectors, investigators, chemists, and other agents as necessary to assist it for any purpose which it may deem necessary;~~

~~(6) Investigate violations of the provisions of law or regulations under its jurisdiction, and cause prosecutions to be instituted in the courts;~~

~~(7) Make 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;~~

~~(8)) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;~~

~~((9)) (5) Issue subpoenas and administer oaths in connection with any ((investigation;)) hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;~~

~~((10)) (6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, ((and/)) or any other laws or rules under its jurisdiction;~~

~~((11)) (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 board;~~

~~((12)) (8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;~~

~~((13)) (9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed ((in good faith)) as members of such board. Such immunity shall apply to employees of the ((board)) department when acting ((at the direction of the board)) in the course of disciplinary proceedings;~~

~~((14)) (10) Establish an interdepartmental coordinating committee on drug misuse, diversion, and abuse, composed of one member from each caucus of the house of representatives and senate, the superintendent of public instruction, the ((director of licensing)) secretary of health, the executive secretary of the criminal justice training commission, the chief of the Washington state patrol, the secretary of social and health services, director of the traffic safety commission, representatives of prescribing, delivering, and dispensing health care practitioner boards, the attorney general, the director of the department of labor and industries, a representative of local law enforcement agencies, and the executive officer of the board of~~

pharmacy, or their designees. The committee shall meet at least twice annually at the call of the executive officer of the board of pharmacy who shall serve as chairperson of the committee. The committee shall advise the board of pharmacy in all matters related to its powers and duties delineated in subsections ~~((15), (16), (17), (18) and (19))~~ (11), (12), (13), (14) and (15) of this section, and shall report to the legislature each biennium on the results of its and the board's activity under those subsections;

~~((15))~~ (11) Provide for the coordination and exchange of information on state programs relating to drug misuse, diversion, and abuse, and act as a permanent liaison among the departments and agencies engaged in activities concerning the legal and illegal use of drugs;

~~((16))~~ (12) 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;

~~((17))~~ (13) 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;

~~((18))~~ (14) 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;

~~((19))~~ (15) 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, ~~((the department of licensing,))~~ 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 ~~((board))~~ department. The ~~((board))~~ department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers.

NEW SECTION. Sec. 410. A new section is added to chapter 18.64 RCW to read as follows:

The department shall:

(1) Establish reasonable license and examination fees and fees for services to other agencies in accordance with section 319 of this act. 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 board, 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 board, including use of subpoena powers, violations of law or regulations under its jurisdiction or the jurisdiction of the board of pharmacy;

(4) Make, at the direction of the board, 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 board, as required by section 304 of this act shall include provisions for the department to involve the board in carrying out its duties required by this section.

Sec. 411. Section 1, chapter 82, Laws of 1969 ex. sess. as last amended by section 59, chapter 7, Laws of 1985 and RCW 18.64.009 are each amended to read as follows:

Employees of the (~~Washington state board of pharmacy~~) department, who are designated by the board 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 (~~administered~~) enforced by the board.

Sec. 412. Section 1, chapter 38, Laws of 1963 as last amended by section 3, chapter 153, Laws of 1984 and RCW 18.64.011 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated when used in this chapter.

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

(2) "Board" means the Washington state board of pharmacy.

(3) "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 man or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man 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.

(4) "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 man or other animals, or (b) to affect the structure or any function of the body of man or other animals.

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

(6) "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.

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

(8) "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.

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

(10) "Pharmacist" means a person duly licensed by the Washington state board of pharmacy to engage in the practice of pharmacy.

(11) "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.

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

(13) The words "drug" and "devices" shall 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, nor shall the word "drug" 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 man.

(14) The word "poison" shall not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(15) "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.

(16) "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.

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

(18) "Compounding" shall be the act of combining two or more ingredients in the preparation of a prescription.

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

(20) "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 re-labeling 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.

(21) "Manufacturer" shall mean a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(22) "Labeling" shall mean 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.

(23) "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.

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

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

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

Sec. 413. Section 10, chapter 121, Laws of 1899 as last amended by section 7, chapter 90, Laws of 1979 and RCW 18.64.040 are each amended to read as follows:

Every applicant for license examination under this chapter shall pay the sum determined by the ~~((board))~~ secretary under section 319 of this act before the examination is attempted.

Sec. 414. Section 12, chapter 213, Laws of 1909 as last amended by section 4, chapter 153, Laws of 1984 and RCW 18.64.043 are each amended to read as follows:

(1) The owner of each pharmacy shall pay an original license fee to be determined by the ~~((board))~~ secretary, and annually thereafter, on or before a date to be determined by the ~~((board))~~ secretary, a fee to be determined by the ~~((board))~~ 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 ~~((board))~~ secretary may approve, for the period ending on a date to be determined by the ~~((board))~~ secretary, 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 ~~((state board of pharmacy))~~ 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.

(2) It shall be the duty of the owner to immediately notify the ~~((board))~~ department of any change of location ~~((and/))~~ 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 for sixty days from date due, 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.

****Sec. 415. Section 17, chapter 90, Laws of 1979 as last amended by section 5, chapter 153, Laws of 1984 and RCW 18.64.044 are each amended to read as follows:***

(1) A shopkeeper registered or exempt from registration as provided in this section may sell nonprescription drugs, if such drugs are sold in the original package of the manufacturer. Shopkeepers with fifteen or fewer drugs shall be exempt from the registration requirements of this section and shall not be required to pay any fees required by this section, but shall be considered shopkeepers for any other purposes under chapter 18.64 RCW.

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

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

(4) Any shopkeeper 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, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense.

*Sec. 415 was vetoed, see message at end of chapter.

Sec. 416. Section 5, chapter 153, Laws of 1949 as last amended by section 6, chapter 153, Laws of 1984 and RCW 18.64.045 are each amended to read as follows:

The owner of each and every place of business which manufactures drugs shall pay a license fee to be determined by the ~~((board))~~ secretary, and thereafter, on or before a date to be determined by the ~~((board))~~ secretary, a fee to be determined by the ~~((board))~~ secretary, for which the owner shall receive a license of location from the ~~((state board of pharmacy))~~ 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 board, and each such owner shall at the time of payment of such fee file with the ~~((state board of pharmacy))~~ 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 ~~((board))~~ department of any change of location ~~((and))~~ or ownership and to keep the license of location or the renewal thereof properly exhibited in such place of business. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee.

Sec. 417. Section 18, chapter 90, Laws of 1979 as amended by section 7, chapter 153, Laws of 1984 and RCW 18.64.046 are each amended to read as follows:

The owner of each place of business which sells legend drugs and non-prescription drugs, or nonprescription drugs at wholesale shall pay a license fee to be determined by the ~~((board))~~ secretary, and thereafter, on or before a date to be determined by the ~~((board))~~ secretary, a like fee to be determined by the ~~((board))~~ secretary, for which the owner shall receive a license of location from the ~~((state board of pharmacy))~~ 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 board, and each such owner shall at the time of payment of such fee file with the ~~((state board of pharmacy))~~ 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 ~~((board))~~ 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. Failure to conform with this section shall be deemed a misdemeanor, and each day that said failure continues shall be deemed a separate offense. In event such license fee remains unpaid for sixty days from date due, no renewal or new license shall be issued except upon payment of the license renewal fee and a penalty fee equal to the license renewal fee.

Sec. 418. Section 16, chapter 121, Laws of 1899 as last amended by section 8, chapter 153, Laws of 1984 and RCW 18.64.047 are each amended to read as follows:

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 ~~((board))~~ secretary on a date to be determined by the ~~((board))~~ secretary. The ~~((state board of pharmacy))~~ department may issue a registration to such vendor on an approved application made to the ~~((state board of pharmacy))~~ department. 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, shall be guilty of a misdemeanor and each sale or offer to sell shall constitute a separate offense. In event such registration fee remains unpaid for sixty days from date due, no renewal or new registration shall be issued except upon payment of the registration renewal fee and a penalty fee equal to the renewal fee. This registration shall not authorize the sale of legend drugs or controlled substances.

Sec. 419. Section 9, chapter 98, Laws of 1935 as last amended by section 9, chapter 153, Laws of 1984 and RCW 18.64.050 are each amended to read as follows:

In the event that a license or certificate issued by the ~~((board of pharmacy))~~ 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 ~~((board of pharmacy))~~ department and the payment of a fee determined by the ~~((board of pharmacy))~~ secretary.

In the event any person desires any certified document to which he is entitled, he shall receive the same upon payment of a fee determined by the ~~((board of pharmacy))~~ secretary.

Sec. 420. Section 1, chapter 9, Laws of 1972 ex. sess. as last amended by section 10, chapter 153, Laws of 1984 and RCW 18.64.080 are each amended to read as follows:

(1) The ~~((state board of pharmacy))~~ 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 board may by regulation require, and who—

(a) Is at least eighteen years of age and is a citizen of the United States, an alien in an educational pharmacy graduate or residency program for the period of the program, or a resident alien;

(b) Has satisfied the board 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 board of pharmacy;

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

(e) Has satisfactorily passed the necessary examinations ~~((given))~~ approved by the board and administered by the department.

(2) The ~~((state board of pharmacy))~~ 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 board. The ~~((said))~~ examination shall be determined by the board. 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 board. The applicant must pay the examination fee determined by the ~~((board))~~

secretary for each examination taken. Upon passing the required examinations and complying with all the rules and regulations of the board and the provisions of this chapter, the ((board)) 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 ((state board of pharmacy)) department an application for registration as a pharmacy intern in which ((said)) application he or she shall be required to furnish such information as the board may, by regulation, prescribe and, simultaneously with the filing of said application, shall pay to the ((board)) department a fee to be determined by the ((board)) secretary. All certificates issued to pharmacy interns shall be valid for a period to be determined by the board, but in no instance shall the certificate be valid if the individual is no longer making timely progress toward graduation, provided however, the board 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 board, and shall include such instruction in the practice of pharmacy as the board by regulation shall prescribe.

(5) The ((board)) 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(~~(-PROVIDED, That))~~). The ((said)) person shall produce evidence satisfactory to the ((board)) 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(~~(-PROVIDED FURTHER))~~), and that the state in which ((said)) 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 ((board)) department.

(6) The ((board)) 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.

Sec. 421. Section 11, chapter 121, Laws of 1899 as last amended by section 11, chapter 153, Laws of 1984 and RCW 18.64.140 are each amended to read as follows:

Every licensed pharmacist who desires to practice pharmacy shall secure from the ~~((board))~~ department a license, the fee for which shall be determined by the ~~((board))~~ secretary. The renewal fee shall also be determined by the ~~((board))~~ secretary. The date of renewal may be established by the ~~((board))~~ secretary by regulation and the ~~((board))~~ department may by regulation extend the duration of a licensing period for the purpose of staggering renewal periods. Such regulation may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period. 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 pharmacy board and department regulations. Pharmacists shall pay the license renewal fee and a penalty equal to the license renewal fee for the late renewal of their license more than sixty days after the renewal is due. 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 ~~((board))~~ department an inactive license. The initial license and renewal fees shall be determined by the ~~((board))~~ secretary. The holder of an inactive license may reactivate his or her license to practice pharmacy in accordance with rules adopted by the board.

Sec. 422. Section 1, chapter 101, Laws of 1977 ex. sess. and RCW 18.64A.010 are each amended to read as follows:

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

- (1) "Board" means the state board of pharmacy;
- (2) "Department" means the department of health;
- (3) "Pharmacist" means a person duly licensed by the state board of pharmacy to engage in the practice of pharmacy;
- ~~((3))~~ (4) "Pharmacy" means every place properly licensed by the board of pharmacy where the practice of pharmacy is conducted;
- ~~((4))~~ (5) "Pharmacy assistant level A" means:
 - (a) A person who is enrolled in, or who has satisfactorily completed, a board 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 board;
- ~~((5))~~ (6) "Pharmacy assistant level B" means a person certified by the board to perform limited functions in the pharmacy;

~~((6))~~ (7) "Practice of pharmacy" means the definition given in RCW 18.64.011, as now or hereafter amended;

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

Sec. 423. Section 3, chapter 101, Laws of 1977 ex. sess. and RCW 18-.64A.030 are each amended to read as follows:

The board shall adopt, in accordance with chapter ~~((34.04))~~ 34.05 RCW, rules and regulations governing the extent to which pharmacy assistants may perform services associated with the practice of pharmacy during training and after successful completion of a training course. Such regulations shall provide for the certification of pharmacy assistants by the department at a ~~((uniform annual))~~ fee ~~((to be))~~ determined by the ~~((board))~~ secretary under section 319 of this act according to the following levels of classification:

(1) "Level A pharmacy assistants" may assist in performing, under the immediate supervision and control of a licensed pharmacist, manipulative, nondiscretionary functions associated with the practice of pharmacy.

(2) "Level B pharmacy assistants" may perform, under the general 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.

Sec. 424. Section 5, chapter 101, Laws of 1977 ex. sess. and RCW 18-.64A.050 are each amended to read as follows:

The board of pharmacy shall have the power to refuse, suspend, or revoke the certificate of any pharmacy assistant 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~~((: PROVIDED, That))~~. Nothing herein shall be construed to affect or alter the provisions of RCW 9.96A.020;

(3) He or she is unfit to perform his or her duties because of habitual intoxication or abuse of controlled substances;

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

(5) He or she has willfully or repeatedly violated any of the rules and regulations of the board of pharmacy or of the department;

(6) 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

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

In any case of the refusal, suspension or revocation of a certificate by the board, a hearing shall be conducted in accordance with RCW 18.64-.160, as now or hereafter amended, and appeal may be taken in accordance with the Administrative Procedure Act, chapter ((34.04)) 34.05 RCW.

Sec. 425. Section 6, chapter 101, Laws of 1977 ex. sess. and RCW 18-.64A.060 are each amended to read as follows:

No pharmacy licensed in this state shall utilize the services of pharmacy assistants without approval of the board.

Any pharmacy licensed in this state may apply to the board for permission to use the services of pharmacy assistants. The application shall be accompanied by a uniform fee to be determined by the ((board)) secretary, shall detail the manner and extent to which the pharmacy assistants would be used and supervised, and shall provide other information in such form as the ((board)) secretary may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of pharmacy assistants and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a uniform fee as determined by the ((board)) secretary. Whenever it appears to the board that a pharmacy assistant is being utilized in a manner inconsistent with the approval granted, the board 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 ((34.04)) 34.05 RCW.

Sec. 426. Section 1, chapter 186, Laws of 1973 1st ex. sess. as last amended by section 17, chapter 153, Laws of 1984 and RCW 69.41.010 are each amended to read as follows:

As used in this chapter, the following terms has the meaning 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) "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.

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

(4) "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.

~~((4))~~ (5) "Dispenser" means a practitioner who dispenses.

~~((5))~~ (6) "Distribute" means to deliver other than by administering or dispensing a legend drug.

~~((6))~~ (7) "Distributor" means a person who distributes.

~~((7))~~ (8) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopeia, 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 man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

~~((8))~~ (9) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

~~((9))~~ (10) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~((10))~~ (11) "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 podiatrist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, an osteopathic physician's assistant under chapter 18.57A RCW, or a physician's assistant under chapter 18.71A RCW, or a pharmacist under chapter 18.64 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 osteopathy and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

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

Sec. 427. Section 3, chapter 139, Laws of 1979 ex. sess. and RCW 69-.41.075 are each amended to read as follows:

The state board of pharmacy may make such rules for the enforcement ~~((and administration))~~ of this chapter as are deemed necessary or advisable. The board shall identify, by rule-making pursuant to chapter ~~((34.04))~~ 34.05 RCW, those drugs which may be dispensed only on prescription or are

restricted to use by practitioners, only. In so doing the board 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 board 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 board 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 ~~((state board of pharmacy))~~ department of health and shall be available on request from the ~~((board))~~ department of health upon payment of a reasonable fee to be set by the ~~((board))~~ department.

Sec. 428. Section 3, chapter 83, Laws of 1980 and RCW 69.41.220 are each amended to read as follows:

Each manufacturer and~~((or))~~ 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 ~~((and))~~. The board shall be notified of any change by the filing of any change with the department. This information shall be provided by the ~~((board))~~ department to all pharmacies licensed in the state of Washington, poison control centers, and hospital emergency rooms.

Sec. 429. Section 69.50.101, chapter 308, Laws of 1971 ex. sess. as last amended by section 2, chapter 144, Laws of 1987 and RCW 69.50.101 are each amended to read as follows:

As used in this chapter:

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

- (1) a practitioner, 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 warehouseman, or employee of the carrier or warehouseman.

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

(d) "Controlled substance" means a drug, substance, or immediate precursor in Schedules I through V of Article II.

(e) "Counterfeit substance" means 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.

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

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

(h) "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.

((~~h~~)) (i) "Dispenser" means a practitioner who dispenses.

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

((~~h~~)) (k) "Distributor" means a person who distributes.

((~~h~~)) (l) "Drug" means (1) 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; (2) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

((~~h~~)) (m) "Immediate precursor" means a substance which the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

((~~m~~)) (n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly 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, except that this term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

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

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

((\pi)) (o) "Marihuana" 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. It 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.

((\sigma)) (p) "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 and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(2) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause 1, 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, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

((\rho)) (q) "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. It 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). It does include its racemic and levorotatory forms.

((\eta)) (r) "Opium poppy" means the plant of the genus *Papaver* L., except its seeds, capable of producing an opiate.

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

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

((\theta)) (u) "Practitioner" means:

(1) 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 chiropodist under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse under chapter 18.88 RCW, a licensed practical nurse under chapter 18.78 RCW, 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 or a physician licensed to practice osteopathy and surgery in any state of the United States.

((~~(u)~~)) (v) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

((~~(v)~~)) (w) "Secretary" means the secretary of health or the secretary's designee.

(x) "State", when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

((~~(w)~~)) (y) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

((~~(x)~~)) (z) "Board" means the state board of pharmacy.

((~~(y)~~) "~~Executive officer~~" means the executive officer of the state board of pharmacy.))

Sec. 430. Section 69.50.201, chapter 308, Laws of 1971 ex. sess. as amended by section 2, chapter 124, Laws of 1986 and RCW 69.50.201 are each amended to read as follows:

(a) The state board of pharmacy shall ((administer)) enforce this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in RCW 69.50.204, 69.50.206, 69.50.208, 69.50.210, or 69.50.212 pursuant to the rule-making procedures of chapter ((~~34.04~~)) 34.05 RCW. In making a determination regarding a substance, the board shall consider the following:

- (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 physiological dependence liability; and

(8) whether the substance is an immediate precursor of a substance already controlled under this Article.

(b) After considering the factors enumerated in subsection (a) the board may issue a rule controlling the substance if it finds the substance has a potential for abuse.

(c) If the board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the board, the substance shall be similarly controlled under this chapter after the expiration of thirty days from publication in the Federal Register of a final order designating a substance as a controlled substance or rescheduling or deleting a substance, unless within that thirty day period, the board objects to inclusion, rescheduling, or deletion. In that case, the board shall proceed pursuant to the rule-making procedures of chapter ~~((34.04))~~ 34.05 RCW.

(e) 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 Title 66 RCW and Title 26 RCW.

(f) The board shall exclude any nonnarcotic substances from a schedule if such substances may, under the Federal Food, Drug and Cosmetic Act, and under regulations of the drug enforcement administration, and the laws of this state including RCW 18.64.250, be lawfully sold over the counter.

(g) On or before December 1 of each year, the board shall inform the committees of reference of the legislature of the controlled substances added, deleted, or changed on the schedules specified in this chapter and which includes an explanation of these actions.

Sec. 431. Section 69.50.301, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.301 are each amended to read as follows:

The state board of pharmacy may promulgate rules and ~~((charge reasonable))~~ the secretary may set fees of not less than ten dollars or more than fifty dollars relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

Sec. 432. Section 69.50.302, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.302 are each amended to read as follows:

(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, must obtain annually a registration issued by the ~~((state board of pharmacy))~~ department in accordance with ~~((its))~~ the board's rules.

(b) Persons registered by the ~~((board))~~ 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 their registration and in conformity with the other provisions of 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 he is acting in the usual course of his business or employment(~~(-PROVIDED, That))~~. 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 warehouseman, 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 Schedule V substance.

(d) The board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety(~~(-PROVIDED, That))~~. 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 ~~((board))~~ department may inspect the establishment of a registrant or applicant for registration in accordance with the board's rule.

Sec. 433. Section 69.50.303, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.303 are each amended to read as follows:

(a) The ~~((state board of pharmacy))~~ 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 ~~((it))~~ the board determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider the following factors:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state and local law;

(3) any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under this chapter;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) does not entitle a registrant to manufacture and distribute controlled substances 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 in Schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this Article for practitioners engaging in research with nonnarcotic controlled substances 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 Schedule I substances may conduct research with Schedule I substances within this state upon furnishing the board evidence of that federal registration.

(d) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration entitles them to be registered under this chapter upon application and payment of the required fee.

Sec. 434. Section 69.50.304, chapter 308, Laws of 1971 ex. sess. as amended by section 8, chapter 124, Laws of 1986 and RCW 69.50.304 are each amended to read as follows:

(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 state board of pharmacy upon a finding that the registrant:

(1) has furnished false or fraudulent material information in any application filed under this chapter;

(2) has been found guilty of a felony under any state or federal law relating to any controlled substance;

(3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) has violated any state or federal rule or regulation regarding controlled substances.

(b) The board 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 board 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 therefor, 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 ~~((board))~~ department shall promptly notify the drug enforcement administration of all orders suspending or revoking registration and all forfeitures of controlled substances.

Sec. 435. Section 1, chapter 197, Laws of 1977 ex. sess. and RCW 69.50.310 are each amended to read as follows:

On and after September 21, 1977, a humane society and animal control agency may apply to the ~~((state board of pharmacy))~~ 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 ~~((board))~~ department may issue a limited registration to carry out the provisions of this section. The board shall promulgate such rules as it deems necessary to insure strict compliance with the provisions of this section. The board 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.

Sec. 436. Section 20, chapter 153, Laws of 1984 and RCW 69.50.311 are each amended to read as follows:

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 ~~((licensing))~~ health.

Sec. 437. Section 69.50.500, chapter 308, Laws of 1971 ex. sess. and RCW 69.50.500 are each amended to read as follows:

(a) It is hereby made the duty of the state board of pharmacy, ~~((its))~~ the department, 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 (~~Washington state board of pharmacy~~) 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.

Sec. 438. Section 3, chapter 136, Laws of 1979 and RCW 69.51.030 are each amended to read as follows:

As used in this chapter:

(1) "Board" means the state board of pharmacy;

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

~~((2))~~ (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

~~((3))~~ (4) "Practitioner" means a physician licensed pursuant to chapter 18.71 or 18.57 RCW.

Sec. 439. Section 4, chapter 136, Laws of 1979 and RCW 69.51.040 are each amended to read as follows:

(1) There is established in the board the controlled substances therapeutic research program. The program shall be administered by the (~~board~~) department. The board shall promulgate rules necessary for the proper administration of the Controlled Substances Therapeutic Research Act. In such promulgation, the board 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(~~(-PROVIDED, That))~~. 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 board shall provide by rule for a program of registration with the department of bona fide controlled substance therapeutic research projects.

Sec. 440. Section 6, chapter 34, Laws of 1987 and RCW 69.38.060 are each amended to read as follows:

The state board of pharmacy, after consulting with the department of ~~((licensing))~~ 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 ~~((board, the board))~~ 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.

Sec. 441. Section 4, chapter 147, Laws of 1988 and RCW 69.43.040 are each amended to read as follows:

(1) The ~~((state board of pharmacy))~~ department of health, in accordance with rules developed by the state board of pharmacy 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 subsection (1)(e) of this section may be computer-generated in accordance with rules adopted by the ~~((state board of pharmacy))~~ department.

Sec. 442. Section 5, chapter 147, Laws of 1988 and RCW 69.43.050 are each amended to read as follows:

(1) The state board of pharmacy 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.

Sec. 443. Section 9, chapter 147, Laws of 1988 and RCW 69.43.090 are each amended to read as follows:

(1) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any substance specified in RCW 69.43.010 to a person in this state 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 state board of pharmacy. 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 board 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 ((board)) department.

(5) A permit granted under this chapter may be renewed on a date to be determined by the board, 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 ((board)) department shall not exceed the costs incurred by the ((board)) 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.

Sec. 444. Section 1, chapter 411, Laws of 1987 and RCW 69.45.010 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Board" means the board of pharmacy.

(2) "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.

(3) "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.

(4) "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.

(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) "Legend drug" means any drug that is required by state law or by regulations of the board to be dispensed on prescription only or is restricted to use by practitioners only.

(8) "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.

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

(10) "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 podiatrist 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 under chapter 18.88 RCW when authorized to prescribe by the board of nursing, an osteopathic physician's assistant under chapter 18.57A RCW when authorized by the board of osteopathic medicine and surgery, or a physician's assistant under chapter 18.71A RCW when authorized by the board of medical examiners.

(11) "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.

(12) "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.

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

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

Sec. 445. Section 2, chapter 411, Laws of 1987 and RCW 69.45.020 are each amended to read as follows:

A manufacturer that intends to distribute drug samples in this state shall register annually with the ~~((board))~~ department, providing the name and address of the manufacturer, and shall:

(1) Provide ~~((the board with))~~ 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 board, 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 ((board)) 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 ((board's)) 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 board with)) 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 ((board)) department.

Sec. 446. Section 3, chapter 411, Laws of 1987 and RCW 69.45.030 are each amended to read as follows:

(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 ((board)) 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 ((board)) department the discovery of any loss or theft of drug samples as soon as possible but not later than the ((board's)) close of business on the next business day following the discovery.

(4) Manufacturers shall report to the ((board)) 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.

Sec. 447. Section 7, chapter 411, Laws of 1987 and RCW 69.45.070 are each amended to read as follows:

The ((board)) department may charge reasonable fees for registration. The registration fee shall not exceed the fee charged by the ((board)) department for a pharmacy location license.

PART V HEALTH DATA AND CHARITY CARE

NEW SECTION. Sec. 501. (1) The legislature finds and declares that there is a need for health care information that helps the general public understand health care issues and how they can be better consumers and that is useful to purchasers, payers, and providers in making health care choices and negotiating payments. It is the purpose and intent of this chapter to establish a hospital data collection, storage, and retrieval system which supports these data needs and which also provides public officials and others engaged in the development of state health policy the information necessary for the analysis of health care issues.

(2) The legislature finds that rising health care costs and access to health care services are of vital concern to the people of this state. It is, therefore, essential that strategies be explored that moderate health care costs and promote access to health care services.

(3) The legislature further finds that access to health care is among the state's goals and the provision of such care should be among the purposes of health care providers and facilities. Therefore, the legislature intends that charity care requirements and related enforcement provisions for hospitals be explicitly established.

(4) The lack of reliable statistical information about the delivery of charity care is a particular concern that should be addressed. It is the purpose and intent of this chapter to require hospitals to provide, and report to the state, charity care to persons with acute care needs, and to have a state agency both monitor and report on the relative commitment of hospitals to the delivery of charity care services, as well as the relative commitment of public and private purchasers or payers to charity care funding.

NEW SECTION. Sec. 502. As used in this chapter:

(1) "Council" means the health care access and cost control council created by this chapter.

(2) "Department" means department of health.

(3) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW.

(4) "Secretary" means secretary of health.

(5) "Charity care" means necessary hospital health care rendered to indigent persons, to the extent that the persons are unable to pay for the care or to pay deductibles or co-insurance amounts required by a third-party payer, as determined by the department.

(6) "Sliding fee schedule" means a hospital-determined, publicly available schedule of discounts to charges for persons deemed eligible for charity care; such schedules shall be established after consideration of guidelines developed by the department.

(7) "Special studies" means studies which have not been funded through the department's biennial or other legislative appropriations.

NEW SECTION. Sec. 503. (1) There is created the health care access and cost control council within the department of health consisting of the following: The director of the department of labor and industries; the administrator of the health care authority; the secretary of social and health services; the administrator of the basic health plan; a person representing the governor on matters of health policy; the secretary of health; and one member from the public-at-large to be selected by the governor who shall represent individual consumers of health care. The public member shall not have any fiduciary obligation to any health care facility or any financial interest in the provision of health care services. Members employed by the state shall serve without pay and participation in the council's work shall be deemed performance of their employment. The public member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for related travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(2) A member of the council designated by the governor shall serve as chairman. The council shall elect a vice-chairman from its members biennially. Meetings of the council shall be held as frequently as its duties require. The council shall keep minutes of its meetings and adopt procedures for the governing of its meetings, minutes, and transactions.

(3) Four members shall constitute a quorum, but a vacancy on the council shall not impair its power to act. No action of the council shall be effective unless four members concur therein.

NEW SECTION. Sec. 504. (1) In order to advise the department and the board of health in preparing executive request legislation and the state health report according to RCW 43.20.050, and, in order to represent the public interest, the council shall monitor and evaluate hospital and related health care services consistent with section 501 of this act. In fulfilling its responsibilities, the council shall have complete access to all the department's data and information systems.

(2) The council shall advise the department on the hospital data collection system required by this chapter.

(3) The council, in addition to participation in the development of the state health report, shall, from time to time, report to the governor and the appropriate committees of the legislature with proposed changes in hospital and related health care services, consistent with the findings in section 501 of this act.

(4) The department may undertake, with advice from the council and within available funds, the following studies:

(a) Recommendations regarding health care cost containment, and the assurance of access and maintenance of adequate standards of care;

(b) Analysis of the effects of various payment methods on health care access and costs;

(c) The utility of the certificate of need program and related health planning process;

(d) Methods of permitting the inclusion of advance medical technology on the health care system, while controlling inappropriate use;

(e) The appropriateness of allocation of health care services;

(f) Professional liabilities on health care access and costs, to include:

(i) Quantification of the financial effects of professional liability on health care reimbursement;

(ii) Determination of the effects, if any, of nonmonetary factors upon the availability of, and access to, appropriate and necessary basic health services such as, but not limited to, prenatal and obstetrical care; and

(iii) Recommendation of proposals that would mitigate cost and access impacts associated with professional liability.

The department shall report its findings and recommendations to the governor and the appropriate committees of the legislature not later than July 1, 1991.

NEW SECTION. Sec. 505. The department shall have the authority to respond to requests of others for special studies or analysis. The department may require such sponsors to pay any or all of the reasonable costs associated with such requests that might be approved, but in no event may costs directly associated with any such special study be charged against the funds generated by the assessment authorized under section 508 of this act.

NEW SECTION. Sec. 506. (1) No hospital or its medical staff shall adopt or maintain admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is, or is likely to be, less than the anticipated charges for or costs of such services; or

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

(2) No hospital shall adopt or maintain practices or policies which would deny access to emergency care based on ability to pay. No hospital which maintains an emergency department shall transfer a patient with an emergency medical condition or who is in active labor unless the transfer is

performed at the request of the patient or is due to the limited medical resources of the transferring hospital. Hospitals must follow reasonable procedures in making transfers to other hospitals including confirmation of acceptance of the transfer by the receiving hospital.

(3) The department shall develop definitions by rule, as appropriate, for subsection (1) of this section and, with reference to federal requirements, subsection (2) of this section. The department shall monitor hospital compliance with subsections (1) and (2) of this section. The department shall report to the legislature and the governor on hospital compliance with these requirements and shall report individual instances of possible non-compliance to the state attorney general or the appropriate federal agency.

(4) The department shall establish and maintain by rule, consistent with the definition of charity care in section 502 of this act, the following:

(a) Uniform procedures, data requirements, and criteria for identifying patients receiving charity care;

(b) A definition of residual bad debt including reasonable and uniform standards for collection procedures to be used in efforts to collect the unpaid portions of hospital charges that are the patient's responsibility.

(5) For the purpose of providing charity care, each hospital shall develop, implement, and maintain a charity care policy which, consistent with subsection (1) of this section, shall enable people below the federal poverty level access to appropriate hospital-based medical services, and a sliding fee schedule for determination of discounts from charges for persons who qualify for such discounts by January 1, 1990. The department shall develop specific guidelines to assist hospitals in setting sliding fee schedules required by this section. All persons with family income below one hundred percent of the federal poverty standard shall be deemed charity care patients for the full amount of hospital charges, provided that such persons are not eligible for other private or public health coverage sponsorship. Persons who may be eligible for charity care shall be notified by the hospital.

(6) Each hospital shall make every reasonable effort to determine the existence or nonexistence of private or public sponsorship which might cover in full or part the charges for care rendered by the hospital to a patient; the family income of the patient as classified under federal poverty income guidelines; and the eligibility of the patient for charity care as defined in this chapter and in accordance with hospital policy. An initial determination of sponsorship status shall precede collection efforts directed at the patient.

(7) The department shall monitor the distribution of charity care among hospitals, with reference to factors such as relative need for charity care in hospital service areas and trends in private and public health coverage. The department shall report to the legislature and executive any problems in distribution which are in contradiction of the intent of this chapter. The report shall include an assessment of the effects of the provisions of this

chapter on access to hospital and health care services, as well as an evaluation of the contribution of all purchasers of care to hospital charity care.

(8) The department shall issue a report on the subjects addressed in this section at least annually, with the first report due on July 1, 1990.

NEW SECTION. Sec. 507. (1) Every person who shall violate or knowingly aid and abet the violation of sections 506 (5) or (6), 508, or 510 of this act, or any valid orders or rules adopted pursuant to these sections, or who fails to perform any act which it is herein made his or her duty to perform, shall be guilty of a misdemeanor. Following official notice to the accused by the department of the existence of an alleged violation, each day of noncompliance upon which a violation occurs shall constitute a separate violation. Any person violating the provisions of this chapter may be enjoined from continuing such violation. The department has authority to levy civil penalties not exceeding one thousand dollars for violations of this chapter and determined pursuant to this section.

(2) Every person who shall violate or knowingly aid and abet the violation of section 506 (1) or (2) of this act, or any valid orders or rules adopted pursuant to such section, or who fails to perform any act which it is herein made his or her duty to perform, shall be subject to the following criminal and civil penalties:

(a) For any initial violations: The violating person shall be guilty of a misdemeanor, and the department may impose a civil penalty not to exceed one thousand dollars as determined pursuant to this section.

(b) For a subsequent violation of section 506 (1) or (2) of this act within five years following a conviction: The violating person shall be guilty of a misdemeanor, and the department may impose a penalty not to exceed three thousand dollars as determined pursuant to this section.

(c) For a subsequent violation with intent to violate section 506 (1) or (2) of this act within five years following a conviction: The criminal and civil penalties enumerated in (a) of this subsection; plus up to a three-year prohibition against the issuance of tax exempt bonds under the authority of the Washington health care facilities authority; and up to a three-year prohibition from applying for and receiving a certificate of need.

(d) For a violation of section 506 (1) or (2) of this act within five years of a conviction under (c) of this subsection: The criminal and civil penalties and prohibition enumerated in (a) and (b) of this subsection; plus up to a one-year prohibition from participation in the state medical assistance or medical care services authorized under chapter 74.09 RCW.

(3) The provisions of chapter 34.05 RCW shall apply to all noncriminal actions undertaken by the department of health, the department of social and health services, and the Washington health care facilities authority pursuant to this act.

NEW SECTION. Sec. 508. The basic expenses for the hospital data collection and reporting activities of this chapter shall be financed by an assessment against hospitals of no more than four one-hundredths of one percent of each hospital's gross operating costs, to be levied and collected from and after that date, upon which the similar assessment levied under chapter 70.39 RCW is terminated, for the provision of hospital services for its last fiscal year ending on or before June 30th of the preceding calendar year. Budgetary requirements in excess of that limit must be financed by a general fund appropriation by the legislature. All moneys collected under this section shall be deposited by the state treasurer in the hospital data collection account which is hereby created in the state treasury. All earnings on investments of balances in the hospital data collection account shall be credited to the general fund. The department may also charge, receive, and dispense funds or authorize any contractor or outside sponsor to charge for and reimburse the costs associated with special studies as specified in section 505 of this act.

Any amounts raised by the collection of assessments from hospitals provided for in this section which are not required to meet appropriations in the budget act for the current fiscal year shall be available to the department in succeeding years.

NEW SECTION. Sec. 509. The department and any of its contractors or agents shall maintain the confidentiality of any information which may, in any manner, identify individual patients.

NEW SECTION. Sec. 510. (1) The department is responsible for the development, implementation, and custody of a state-wide hospital data system. As part of the design stage for development of the system, the department shall undertake a needs assessment of the types of, and format for, hospital data needed by consumers, purchasers, payers, hospitals, and state government as consistent with the intent of this chapter. The department shall identify a set of hospital data elements and report specifications which satisfy these needs. The council shall review the design of the data system and may direct the department to contract with a private vendor for assistance in the design of the data system. The data elements, specifications, and other design features of this data system shall be made available for public review and comment and shall be published, with comments, as the department's first data plan by January 1, 1990.

(2) Subsequent to the initial development of the data system as published as the department's first data plan, revisions to the data system shall be considered through the department's development of a biennial data plan, as proposed to, and funded by, the legislature through the biennial appropriations process. Costs of data activities outside of these data plans except for special studies shall be funded through legislative appropriations.

(3) In designing the state-wide hospital data system and any data plans, the department shall identify hospital data elements relating to both

hospital finances and the use of services by patients. Data elements relating to hospital finances shall be reported by hospitals in conformance with a uniform system of reporting as specified by the department and shall include data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial information reasonably necessary to fulfill the purposes of this chapter, for hospital activities as a whole and, as feasible and appropriate, for specified classes of hospital purchasers and payers. Data elements relating to use of hospital services by patients shall, at least initially, be the same as those currently compiled by hospitals through inpatient discharge abstracts and reported to the Washington state hospital commission.

(4) The state-wide hospital data system shall be uniform in its identification of reporting requirements for hospitals across the state to the extent that such uniformity is necessary to fulfill the purposes of this chapter. Data reporting requirements may reflect differences in hospital size; urban or rural location; scope, type, and method of providing service; financial structure; or other pertinent distinguishing factors. So far as possible, the data system shall be coordinated with any requirements of the federal department of health and human services in its administration of the medicare program and the state in its role of gathering public health statistics, so as to minimize any unduly burdensome reporting requirements imposed on hospitals.

(5) In identifying financial reporting requirements under the state-wide hospital data system, the department may require both annual reports and condensed quarterly reports, so as to achieve both accuracy and timeliness in reporting.

(6) In designing the initial state-wide hospital data system as published in the department's first data plan, the department shall review all existing systems of hospital financial and utilization reporting used in this state to determine their usefulness for the purposes of this chapter, including their potential usefulness as revised or simplified.

(7) Until such time as the state-wide hospital data system and first data plan are developed and implemented and hospitals are able to comply with reporting requirements, the department shall require hospitals to continue to submit the hospital financial and patient discharge information previously required to be submitted to the Washington state hospital commission. Upon publication of the first data plan, hospitals shall have a reasonable period of time to comply with any new reporting requirements and, even in the event that new reporting requirements differ greatly from past requirements, shall comply within two years of the effective date of this chapter.

(8) The hospital data collected and maintained by the department shall be available for retrieval in original or processed form to public and private

requestors within a reasonable period of time after the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data shall be funded by a fee schedule developed by the department which reflects the direct cost of retrieving the data in the requested form.

NEW SECTION. Sec. 511. The department shall provide, or may contract with a private entity to provide, hospital analyses and reports consistent with the purposes of this chapter. Prior to release, the department shall provide affected hospitals with an opportunity to review and comment on reports which identify individual hospital data with respect to accuracy and completeness, and otherwise shall focus on aggregate reports of hospital performance. These reports shall include:

(1) Consumer guides on purchasing hospital care services and publications providing verifiable and useful comparative information to consumers on hospitals and hospital services;

(2) Reports for use by classes of purchasers, payers, and providers as specified for content and format in the state-wide data system and data plan; and

(3) Reports on relevant hospital policy issues including the distribution of hospital charity care obligations among hospitals; absolute and relative rankings of Washington and other states, regions, and the nation with respect to expenses, net revenues, and other key indicators; hospital efficiencies; and the effect of medicare, medicaid, and other public health care programs on rates paid by other purchasers of hospital care.

***NEW SECTION.** Sec. 512. *The department shall, by December 15 of each even-numbered year, submit to the appropriate committees of the legislature a report covering total expenditures by state government over the past two years for the purchase or provision of health care services, together with an estimate of such future expenditures during the ensuing four years. The reports, together with any suitable recommendations, shall be consistent with the provisions of section 17, chapter 288, Laws of 1984 (uncodified).*

*Sec. 512 was vetoed, see message at end of chapter.

PART VI CERTIFICATE OF NEED

Sec. 601. Section 1, chapter 161, Laws of 1979 ex. sess. as last amended by section 1, chapter 235, Laws of 1983 and RCW 70.38.015 are each amended to read as follows:

It is declared to be the public policy of this state:

(1) That health planning to promote, maintain, and assure the health of all citizens in the state, to provide accessible health services, health manpower, health facilities, and other resources while controlling excessive increases in costs, and to recognize prevention as a high priority in health

programs, is essential to the health, safety, and welfare of the people of the state. Health planning should be ~~((fostered on both a state-wide and regional basis and must maintain responsiveness))~~ responsive to changing health and social needs and conditions. Involvement in health planning from both consumers and providers throughout the state should be encouraged(~~(Regional health planning under this chapter and in a manner consistent with RCW 36.70.015 is declared to be a proper public purpose for the expenditure of funds of counties or other public entities interested in local and regional health planning))~~);

(2) That the development of health services and resources, including the construction, modernization, and conversion of health facilities, should be accomplished in a planned, orderly fashion, consistent with identified priorities and without unnecessary duplication or fragmentation;

(3) That the development and maintenance of adequate health care information, statistics and projections of need for health facilities and services is essential to effective health planning and resources development;

(4) That the development of nonregulatory approaches to health care cost containment should be considered, including the strengthening of price competition; and

(5) That health planning should be concerned with public health and health care financing, access, and quality, recognizing ~~((the))~~ their close interrelationship ~~((of the three))~~ and emphasizing cost control of health services, including cost-effectiveness and cost-benefit analysis(~~(~~;

~~((6) That this chapter should be construed to effectuate this policy and to be consistent with requirements of the federal health planning and resources development laws)).~~

Sec. 602. Section 2, chapter 161, Laws of 1979 ex. sess. as last amended by section 1, chapter 20, Laws of 1988 and RCW 70.38.025 are each amended to read as follows:

When used in this chapter, the terms defined in this section shall have the meanings indicated.

(1) "Board of health" means the state board of health created pursuant to chapter 43.20 RCW.

(2) "Capital expenditure" is an expenditure, including a force account expenditure (i.e., an expenditure for a construction project undertaken by a nursing home facility as its own contractor) which, under generally accepted accounting principles, is not properly chargeable as an expense of operation or maintenance. Where a person makes an acquisition under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been made by purchase, such expenditure shall be deemed a capital expenditure. Capital expenditures include donations of equipment or facilities to a ~~((health care))~~ nursing home facility which if

acquired directly by such facility would be subject to certificate of need review under the provisions of this chapter and transfer of equipment or facilities for less than fair market value if a transfer of the equipment or facilities at fair market value would be subject to such review. The cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which such expenditure is made shall be included in determining the amount of the expenditure.

(3) "Continuing care retirement community" means an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service. A "continuing care contract" means a contract to provide a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

(4) ~~((^a"Council"~~ means the state health coordinating council created in RCW 70.38.055 and described in Public Law 93-641.

(5))) "Department" means the ((state)) department of ((social and health services)) health.

((6))) (5) "Expenditure minimum" means, for the purposes of the certificate of need program, one million dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule.

((7) ~~"Federal law" means Public Law 93-641, as amended, or its successor.~~

(8))) (6) "Health care facility" means hospices, hospitals, psychiatric hospitals, ~~((tuberculosis hospitals,))~~ nursing homes, kidney disease treatment centers, ambulatory surgical facilities, ~~((rehabilitation facilities,))~~ continuing care retirement communities, and home health agencies, and includes such facilities when owned and operated ~~((by the state or))~~ by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts. In addition, the term does not include any nonprofit hospital: (a) Which is operated exclusively to provide health care services for children; (b) which does not charge fees for such services~~((, (c) whose rate reviews are waived by the state hospital commission));~~ and ~~((d)))~~ (c) if not contrary to federal law as necessary to

the receipt of federal funds by the state. In addition, the term does not include a continuing care retirement community which: (i) Offers services only to contractual members; and (ii) provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some form of assistance with activities of daily living; and (iii) contractually assumes responsibility for costs of services exceeding the member's financial responsibility as stated in contract, so that, with the exception of insurance purchased by the retirement community or its members, no third party, including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources; and (iv) has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home; and (v) maintains a binding agreement with the department of social and health services assuring that financial liability for services to members, including nursing home services, shall not fall upon the department of social and health services; and (vi) does not operate, and has not undertaken, a project which would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and (vii) has undertaken no increase in the total number of nursing home beds after January 1, 1988, unless a professional review of pricing and long-term solvency was obtained by the retirement community within the prior five years and fully disclosed to members.

~~((9))~~ (7) "Health maintenance organization" means a public or private organization, organized under the laws of the state, which:

(a) Is a qualified health maintenance organization under Title XIII, section 1310(d) of the Public Health Services Act; or

(b)(i) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services, and out-of-area coverage; (ii) is compensated (except for copayments) for the provision of the basic health care services listed in (b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and (iii) provides physicians' services primarily (A) directly through physicians who are either employees or partners of such organization, or (B) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

~~((10))~~ (8) "Health services" means clinically related (i.e., preventive, diagnostic, curative, rehabilitative, or palliative) services and includes alcoholism, drug abuse, and mental health services and as defined in federal law.

~~((11))~~ (9) "Health service area" means a geographic region appropriate for effective health planning which includes a broad range of health services ~~((and a population of at least four hundred fifty thousand persons))~~.

~~((12))~~ "Institutional health services" means health services provided in or through health care facilities and entailing annual operating costs of at least five hundred thousand dollars adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule. PROVIDED, That no new health care facility may be initiated as an institutional health service.

~~(13)~~ "Major medical equipment" means medical equipment which is used for the provision of medical and other health services and which costs in excess of one million dollars, adjusted by the department by rule to reflect changes in the United States department of commerce composite construction cost index; or a lesser amount required by federal law and established by the department by rule; except that such term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act to meet the requirements of paragraphs ~~(10)~~ and ~~(11)~~ of section 1861(s) of such act.

~~((14))~~ (10) "Person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and insurance companies), the state, or a political subdivision or instrumentality of the state, including a municipal corporation or a hospital district.

~~((15))~~ (11) "Provider" generally means a health care professional or an organization, institution, or other entity providing health care but the precise definition for this term shall be established by rule of the department, consistent with federal law.

~~((16))~~ (12) "Public health" means the level of well-being of the general population; those actions in a community necessary to preserve, protect, and promote the health of the people for which government is responsible; and the governmental system developed to guarantee the preservation of the health of the people.

~~((17))~~ "Regional health council" means a public regional planning body or a private nonprofit corporation which is organized and operated in a manner that is consistent with the laws of the state and which is capable of performing each of the functions described in RCW 70.38.085. A regional health council shall have a governing body for health planning which is composed of a majority (but not more than sixty percent of the members) of persons who are residents of the health service area served by the entity; who are consumers of health care; who are broadly representative of the social, economic, linguistic, and racial populations, and geographic areas of the health service area; and major purchasers of health care; and who are

~~not, nor within the twelve months preceding appointment have been, providers of health care. The remainder of the members shall be residents of the health service area served by the agency who are providers of health care.~~

~~(18) "Regional health plan" means a document which provides at least a statement of health goals and priorities for the health service area. In addition, it sets forth the number, type, and distribution of health facilities, services, and manpower needed within the health service area to meet the goals of the plan.~~

~~(19) "State health plan" means a document developed in accordance with RCW 70.38.065.))~~

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

(14) "Tertiary health service" means a specialized service that meets complicated medical needs of people and requires sufficient patient volume to optimize provider effectiveness, quality of service, and improved outcomes of care.

(15) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW.

Sec. 603. Section 10, chapter 161, Laws of 1979 ex. sess. as last amended by section 21, chapter 288, Laws of 1984 and RCW 70.38.105 are each amended to read as follows:

(1) The department is authorized and directed to implement the certificate of need program in this state pursuant to the provisions of this chapter.

(2) There shall be a state certificate of need program which is administered consistent with the requirements of federal law as necessary to the receipt of federal funds by the state.

(3) No person shall engage in any undertaking which is subject to certificate of need review under subsection (4) of this section without first having received from the department either a certificate of need or an exception granted in accordance with this chapter.

(4) The following shall be subject to certificate of need review under this chapter:

(a) The construction, development, or other establishment of a new health care facility;

(b) The sale, purchase, or lease of part or all of any existing hospital as defined in RCW ~~((70.39.020))~~ 70.38.025;

(c) Any capital expenditure ~~((by or on behalf of a health care facility))~~ for the construction, renovation, or alteration of a nursing home which substantially changes the services of the facility after January 1, 1981, provided that the substantial changes in services are specified by the department in rule;

(d) Any capital expenditure ~~((by or on behalf of a health care facility))~~ for the construction, renovation, or alteration of a nursing home which exceeds the expenditure minimum as defined by RCW 70.38.025. However, a capital expenditure which is not subject to certificate of need review under (a), (b), (c), or ~~((f), or (g))~~ of this subsection and which is solely for any one or more of the following is not subject to certificate of need review except to the extent required by the federal government as a condition to receipt of federal assistance and does not substantially affect patient charges:

(i) Communications and parking facilities;
(ii) Mechanical, electrical, ventilation, heating, and air conditioning systems;

(iii) Energy conservation systems;

(iv) Repairs to, or the correction of, deficiencies in existing physical plant facilities which are necessary to maintain state licensure;

(v) Acquisition of equipment, including data processing equipment, which is not or will not be used in the direct provision of health services;

(vi) Construction which involves physical plant facilities, including administrative and support facilities, which are not or will not be used for the provision of health services;

(vii) Acquisition of land; and

(viii) Refinancing of existing debt;

(e) A change in bed capacity of a health care facility which increases the total number of licensed beds or redistributes beds among ~~((facility and service categories of))~~ acute care, skilled nursing, intermediate care, and boarding home care if the bed redistribution is to be effective for a period in excess of six months;

~~(f) ((Acquisition of major medical equipment:~~

~~(i) If the equipment will be owned by or located in a health care facility, or~~

~~(ii) If, after January 1, 1981, the equipment is not to be owned by or located in a health care facility, the department finds consistent with federal regulations the equipment will be used to provide services for hospital inpatients, or the person acquiring such equipment did not notify the department of the intent to acquire such equipment at least thirty days before entering into contractual arrangements for such acquisition;~~

~~(g)) Any new ((institutional)) tertiary health services which are offered in or through a health care facility, and which were not offered on a regular basis by, in, or through such health care facility within the twelve-month period prior to the time such services would be offered; ((and~~

~~(h)) (g) Any expenditure ((by or on behalf of a health care facility)) for the construction, renovation, or alteration of a nursing home or change in nursing home services in excess of the expenditure minimum made in preparation for any undertaking under subsection (4) of this section and~~

any arrangement or commitment made for financing such undertaking. Expenditures of preparation shall include expenditures for architectural designs, plans, working drawings, and specifications. The department may issue certificates of need permitting predevelopment expenditures, only, without authorizing any subsequent undertaking with respect to which such predevelopment expenditures are made; and

(h) Any increase in the number of dialysis stations in a kidney disease center.

(5) The department is authorized to charge fees for the review of certificate of need applications and requests for exemptions from certificate of need review. The fees shall be sufficient to cover the full cost of review and exemption, which may include the development of standards, criteria, and policies.

~~((5))~~ (6) No person may divide a project in order to avoid review requirements under any of the thresholds specified in this section.

Sec. 604. Section 9, chapter 139, Laws of 1980 as amended by section 3, chapter 119, Laws of 1982 and RCW 70.38.111 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient ~~((institutional))~~ tertiary health service ~~((or the acquisition of major medical equipment for the provision of an inpatient institutional health service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by=))~~ by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the ~~((institutional))~~ tertiary health service will be individuals enrolled with such organization or organizations in the combination~~((:))~~;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the ~~((institutional))~~ tertiary health service will be individuals enrolled with such organization or organizations in the combination~~((:))~~; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the ((institutional)) tertiary health service will be individuals enrolled with such organization(;;);
if, with respect to such offering((,-acquisition,)) or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering ~~((an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless=))~~ a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of ((an institutional health service, acquiring major medical equipment, or obligating capital expenditures in excess of the expenditure minimum)) services reviewable under RCW 70.38.105(4)(d) an application for such exemption(;;); and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering((,-acquisition,)) or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements(;;); and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide ((institutional)) tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) ~~((or medical equipment))~~ with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in

such facility ~~((or equipment))~~ or in a lease of such facility ~~((or equipment))~~ may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless~~((=))~~;

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use~~((;))~~; or

(b) The department determines, upon application, that (i) the entity to which the facility ~~((or equipment))~~ is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility ~~((or equipment))~~, meets the requirements of (1)(a) (ii) or (iii) or the requirements of (1)(b) (i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements only to the offering of inpatient ~~((institutional))~~ tertiary health services ~~((and the acquisition of major medical equipment and the obligation of capital expenditures for the offering of inpatient institutional health services;))~~ and then only to the extent that such offering~~((, acquisition, or obligation))~~ is not exempt under the provisions of this section.

Sec. 605. Section 11, chapter 161, Laws of 1979 ex. sess. as last amended by section 22, chapter 288, Laws of 1984 and RCW 70.38.115 are each amended to read as follows:

(1) Certificates of need shall be issued, denied, suspended, or revoked by the designee of the secretary ~~((of the department))~~ in accord with the provisions of this chapter and rules of the department which establish review procedures and criteria for the certificate of need program.

(2) Criteria for the review of certificate of need applications, except as provided in subsection (3) of this section for health maintenance organizations, shall include but not be limited to consideration of the following:

(a) Until June 30, 1990, the relationship of the health services being reviewed to the applicable health plans;

(b) The need that the population served or to be served by such services has for such services;

(c) The availability of less costly or more effective alternative methods of providing such services;

(d) The financial feasibility and the probable impact of the proposal on the cost of and charges for providing health services in the community to be served~~((, including findings and recommendations of the Washington state hospital commission in the case of applications submitted by hospitals. An application by a hospital shall be denied if the state hospital commission~~

~~does not recommend approval, unless the secretary provides the commission with a written statement setting forth the reason or reasons, and citing the applicable subsection or subsections of this section, for approving an application that the commission has determined to be not feasible));~~

(e) In the case of health services to be provided, (i) the availability of alternative uses of project resources for the provision of other health services, (ii) the extent to which such proposed services will be accessible to all residents of the area to be served, and (iii) the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The department shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels;

(f) In the case of a construction project, the costs and methods of the proposed construction, including the cost and methods of energy provision, and the probable impact of the construction project reviewed (i) on the cost of providing health services by the person proposing such construction project and (ii) on the cost and charges to the public of providing health services by other persons;

(g) The special needs and circumstances of osteopathic hospitals, nonallopathic services and children's hospitals;

(h) Improvements or innovations in the financing and delivery of health services which foster cost containment and serve to promote quality assurance and cost-effectiveness;

(i) In the case of health services proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed;

(j) In the case of existing services or facilities, the quality of care provided by such services or facilities in the past; and

(k) In the case of hospital certificate of need applications, whether the hospital meets or exceeds the regional average level of charity care, as determined by the ~~((hospital commission))~~ secretary.

(3) A certificate of need application of a health maintenance organization or a health care facility which is controlled, directly or indirectly, by a health maintenance organization, shall be approved by the department if the department finds:

(a) Approval of such application is required to meet the needs of the members of the health maintenance organization and of the new members which such organization can reasonably be expected to enroll; and

(b) The health maintenance organization is unable to provide, through services or facilities which can reasonably be expected to be available to the organization, its ~~((institutional))~~ health services in a reasonable and cost-effective manner which is consistent with the basic method of operation of

the organization and which makes such services available on a long-term basis through physicians and other health professionals associated with it.

A health care facility ((f)), or any part thereof(~~(f) or medical equipment~~), with respect to which a certificate of need was issued under this subsection may not be sold or leased and a controlling interest in such facility (~~or equipment~~) or in a lease of such facility (~~or equipment~~) may not be acquired unless the department issues a certificate of need approving the sale, acquisition, or lease.

(4) Until the final expiration of the state health plan as provided under section 610 of this act, the decision of the department on a certificate of need application shall be consistent with the state health plan in effect, except in emergency circumstances which pose a threat to the public health. The department in making its final decision may issue a conditional certificate of need if it finds that the project is justified only under specific circumstances. The conditions shall directly relate to the project being reviewed. The conditions may be released if it can be substantiated that the conditions are no longer valid and the release of such conditions would be consistent with the purposes of this chapter.

(5) Criteria adopted for review in accordance with subsection (2) of this section may vary according to the purpose for which the particular review is being conducted or the type of health service reviewed.

(6) The department shall specify information to be required for certificate of need applications. Within fifteen days of receipt of the application, the department shall request additional information considered necessary to the application or start the review process. Applicants may decline to submit requested information through written notice to the department, in which case review starts on the date of receipt of the notice. Applications may be denied or limited because of failure to submit required and necessary information.

(7) Concurrent review is for the purpose of comparative analysis and evaluation of competing or similar projects in order to determine which of the projects may best meet identified needs. Categories of projects subject to concurrent review include at least new health care facilities, new services, and expansion of existing health care facilities. The department shall specify time periods for the submission of applications for certificates of need subject to concurrent review, which shall not exceed ninety days. Review of concurrent applications shall start fifteen days after the conclusion of the time period for submission of applications subject to concurrent review. Concurrent review periods shall be limited to one hundred fifty days, except as provided for in rules adopted by the department authorizing and limiting amendment during the course of the review, or for an unresolved pivotal issue declared by the department.

(8) Review periods for certificate of need applications other than those subject to concurrent review shall be limited to ninety days. Review periods

may be extended up to thirty days if needed by a review agency, and for unresolved pivotal issues the department may extend up to an additional thirty days. A review may be extended in any case if the applicant agrees to the extension.

(9) The department or ~~((a designated regional health council))~~ its designee, shall conduct a public hearing on a certificate of need application if requested unless the review is expedited or subject to emergency review. The department by rule shall specify the period of time within which a public hearing must be requested and requirements related to public notice of the hearing, procedures, recordkeeping and related matters.

(10) Any applicant denied a certificate of need or whose certificate of need has been suspended or revoked shall be afforded an opportunity for administrative review in accordance with chapter ~~((34.04))~~ 34.05 RCW and a hearing shall be held within one hundred twenty days of a request therefor. An administrative law judge shall review the decision of the secretary's designee and render a proposed decision for consideration by the secretary in accordance with chapter 34.12 RCW or remand the matter to the secretary's designee for further consideration. The secretary's final decision is subject to review by the superior court as provided in chapter ~~((34.04))~~ 34.05 RCW.

(11) The department may establish procedures and criteria for reconsideration of decisions.

(12) An amended certificate of need shall be required for the following modifications of an approved project:

(a) A new service requiring review under this chapter;

(b) An expansion of a service subject to review beyond that originally approved;

(c) An increase in bed capacity;

(d) A significant reduction in the scope of a nursing home project without a commensurate reduction in the cost of the nursing home project, or a cost increase (as represented in bids on a nursing home construction project or final cost estimates acceptable to the person to whom the certificate of need was issued) if the total of such increases exceeds twelve percent or fifty thousand dollars, whichever is greater, over the maximum capital expenditure approved. The review of reductions or cost increases shall be restricted to the continued conformance of the nursing home project with the review criteria pertaining to financial feasibility and cost containment.

(13) An application for a certificate of need for a nursing home capital expenditure which is determined by the department to be required to eliminate or prevent imminent safety hazards or correct violations of applicable licensure and accreditation standards shall be approved.

Sec. 606. Section 12, chapter 161, Laws of 1979 ex. sess. as last amended by section 9, chapter 235, Laws of 1983 and RCW 70.38.125 are each amended to read as follows:

(1) A certificate of need shall be valid for two years(~~(-PROVIDED; That)).~~ One six-month extension may be made if it can be substantiated that substantial and continuing progress toward commencement of the project has been made as defined by regulations to be adopted pursuant to this chapter.

(2) A project for which a certificate of need has been issued shall be commenced during the validity period for the certificate of need.

(3) The department(~~(; in cooperation with the regional health councils, and the hospital commission in the case of hospital projects;))~~ shall monitor the (~~(costs and components of))~~ approved projects to assure conformance with certificates of need that have been issued. Rules and regulations adopted shall specify when changes in the (~~(cost or components of a))~~ project require reevaluation of the project. The department may require applicants to submit periodic progress reports on approved projects or other information as may be necessary to effectuate its monitoring responsibilities.

(4) The secretary (~~(of the department))~~, in the case of a new health facility, shall not issue any license unless and until a prior certificate of need shall have been issued by the department for the offering or development of such new health facility.

(5) Any person who engages in any undertaking which requires certificate of need review without first having received from the department either a certificate of need or an exception granted in accordance with this chapter shall be liable to the state in an amount not to exceed one hundred dollars a day for each day of such unauthorized offering or development. Such amounts of money shall be recoverable in an action brought by the attorney general on behalf of the state in the superior court of any county in which the unauthorized undertaking occurred. Any amounts of money so recovered by the attorney general shall be deposited in the state general fund.

(6) The department may bring any action to enjoin a violation or the threatened violation of the provisions of this chapter or any rules and regulations adopted pursuant to this chapter, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county.

Sec. 607. Section 13, chapter 161, Laws of 1979 ex. sess. as amended by section 10, chapter 235, Laws of 1983 and RCW 70.38.135 are each amended to read as follows:

The secretary (~~(of the department))~~ shall have authority to:

(1) Provide when needed temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part time or fee-for-service basis;

(2) Make or cause to be made such on-site surveys of health care or medical facilities as may be necessary ~~((to the development of the state health plan and))~~ for the administration of the certificate of need program;

(3) Upon review of recommendations, if any, from the board of health:

(a) Promulgate rules under which health care facilities providers doing business within the state shall submit to the department such data related to health and health care as the department finds necessary to the performance of its functions under this chapter;

(b) Promulgate rules pertaining to the maintenance and operation of medical facilities which receive federal assistance under the provisions of Title XVI;

(c) Promulgate rules in implementation of the provisions of this chapter, including the establishment of procedures for public hearings for predecisions and post-decisions on applications for certificate of need;

(d) Promulgate rules providing circumstances and procedures of expedited certificate of need review if((:

(i) ~~An application is found consistent with the state health plan; and~~
(ii)) there has not been a significant change in existing health facilities of the same type or in the need for such health facilities and services;

(4) Grant allocated state funds to ~~((regional health councils))~~ qualified entities, as defined by the department, to fund not more than seventy-five percent of the costs of regional planning activities, excluding costs related to review of applications for certificates of need, provided for in this chapter or approved by the ~~((council))~~ department; and

(5) Contract with and provide reasonable reimbursement for ~~((designated regional health councils))~~ qualified entities to assist in determinations of certificates of need.

NEW SECTION. Sec. 608. The enactment of sections 601 through 607 of this act shall not have the effect of terminating, or in any way modifying, the validity of any certificate of need which shall already have been issued prior to the effective date of this act.

NEW SECTION. Sec. 609. Any certificate of need application which was submitted and declared complete, but upon which final action had not been taken prior to the effective date of this act, shall be reviewed and action taken based on chapter 70.38 RCW, as in effect prior to the effective date of this act, and the rules adopted thereunder.

NEW SECTION. Sec. 610. For the purpose of supporting the certificate of need process, the state health plan developed in accordance with RCW 70.38.065 and in effect on the effective date of this act, shall remain effective until June 30, 1990, or until superseded by rules adopted by the department of health for this purpose. The governor may amend the state health plan, as the governor finds appropriate, until the final expiration of the plan.

Sec. 611. Section 9, chapter 267, Laws of 1955 and RCW 70.41.090 are each amended to read as follows:

~~((After January 1, 1956,))~~ (1) No person or governmental unit of the state of Washington, acting separately or jointly with any other person or governmental unit, shall establish, maintain, or conduct a hospital in this state, or use the word "hospital" to describe or identify an institution, without a license under this chapter: PROVIDED, That the provisions of this section shall not apply to state mental institutions and psychiatric hospitals which come within the scope of chapter 71.12 RCW.

(2) After June 30, 1989, no hospital shall initiate a tertiary health service as defined in RCW 70.38.025(14) unless it has received a certificate of need as provided in RCW 70.38.105 and 70.38.115.

Sec. 612. Section 17, chapter 267, Laws of 1955 and RCW 70.41.170 are each amended to read as follows:

Any person operating or maintaining a hospital without a license under this chapter, or, after June 30, 1989, initiating a tertiary health service as defined in RCW 70.38.025(14) that is not approved under RCW 70.38.105 and 70.38.115, shall be guilty of a misdemeanor, and each day of operation of an unlicensed hospital or unapproved tertiary health service, shall constitute a separate offense.

PART VII RURAL HEALTH

NEW SECTION. Sec. 701. (1) The legislature declares that availability of health services to rural citizens is an issue on which a state policy is needed.

The legislature finds that changes in the demand for health care, in reimbursement policies of public and private purchasers, in the economic and demographic conditions in rural areas threaten the availability of care services.

In addition, many factors inhibit needed changes in the delivery of health care services to rural areas which include inappropriate and outdated regulatory laws, aging and inefficient health care facilities, the absence of local planning and coordination of rural health care services, the lack of community understanding of the real costs and benefits of supporting rural hospitals, the lack of regional systems to assure access to care that cannot be provided in every community, and the absence of state health care policy objectives.

The legislature further finds that the creation of effective health care delivery systems that assure access to health care services provided in an affordable manner will depend on active local community involvement. It further finds that it is the duty of the state to create a regulatory environment and health care payment policy that promotes innovation at the local level to provide such care.

It further declares that it is the responsibility of the state to develop policy that provides direction to local communities with regard to such factors as a definition of health care services, identification of state-wide health status outcomes, clarification of state, regional, community responsibilities and interrelationships for assuring access to affordable health care and continued assurances that quality health care services are provided.

(2) The legislature further finds that many rural communities do not operate hospitals in a cost-efficient manner. The cost of operating the rural hospital often exceeds the revenues generated. Some of these hospitals face closure, which may result in the loss of health care services for the community. Many communities are struggling to retain health care services by operating a cost-efficient facility located in the community. Current regulatory laws do not provide for the facilities licensure option that is appropriate for rural areas. A major barrier to the development of an appropriate rural licensure model is federal medicare approval to guarantee reimbursement for the costs of providing care and operating the facility. Medicare certification typically elaborates upon state licensure requirements. Medicare approval of reimbursement is more likely if the state has developed legal criteria for a rural-appropriate health facility. Medicare has begun negotiations with other states facing similar problems to develop exceptions with the goal of allowing reimbursement of rural alternative health care facilities. It is in the best interests of rural citizens for Washington state to begin negotiations with the federal government with the objective of designing a medicare eligible rural health care facility structured to meet the health care needs of rural Washington and be eligible for federal and state financial support for its development and operation.

NEW SECTION. Sec. 702. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Administrative structure" means a system of contracts or formal agreements between organizations and persons providing health services in an area that establishes the roles and responsibilities each will assume in providing the services of the rural health care facility.

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

(3) "Health care delivery system" means services and personnel involved in providing health care to a population in a geographic area.

(4) "Health care facility" means any land, structure, system, machinery, equipment, or other real or personal property or appurtenances useful for or associated with delivery of inpatient or outpatient health care service or support for such care or any combination thereof which is operated or undertaken in connection with a hospital, clinic, health maintenance organization, diagnostic or treatment center, extended care facility, or any facility providing or designed to provide therapeutic, convalescent or preventive health care services.

(5) "Health care system strategic plan" means a plan developed by the participant and includes identification of health care service needs of the participant, services and personnel necessary to meet health care service needs, identification of health status outcomes and outcome measures, identification of funding sources, and strategies to meet health care needs including measures of effectiveness.

(6) "Institutions of higher education" means educational institutions as defined in RCW 28B.10.016.

(7) "Local administrator" means an individual or organization representing the participant who may enter into legal agreements on behalf of the participant.

(8) "Participant" means communities, counties, and regions that serve as a health care catchment area where the project site is located.

(9) "Project" means the Washington rural health system project.

(10) "Project site" means a site selected to participate in the project.

(11) "Rural health care facility" means a facility, group, or other formal organization or arrangement of facilities, equipment, and personnel capable of providing or assuring availability of health services in a rural area. The services to be provided by the rural health care facility may be delivered in a single location or may be geographically dispersed in the community health service catchment area so long as they are organized under a common administrative structure or through a mechanism that provides appropriate referral, treatment, and follow-up.

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

NEW SECTION. Sec. 703. (1) The department shall establish the Washington rural health system project to provide financial and technical assistance to participants. The goal of the project is to help assure access to affordable health care services to citizens in the rural areas of Washington state.

(2) Administrative costs necessary to implement this project shall be kept at a minimum to insure the maximum availability of funds for participants.

(3) The secretary may appoint such technical or advisory committees as he or she deems necessary consistent with the provisions of section 106 of this act. In appointing an advisory committee the secretary should assure representation by health care professionals, health care providers, and those directly involved in the purchase, provision, or delivery of health care services as well as consumers, rural community leaders, and those knowledgeable of the issues involved with health care public policy. Individuals appointed to any technical advisory committee shall serve without compensation for their services as members, but may be reimbursed for their travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The secretary may contract with third parties for services necessary to carry out activities to implement this chapter where this will promote

economy, avoid duplication of effort, and make the best use of available expertise.

(5) The secretary may apply for, receive, and accept gifts and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects related to the delivery of health care in rural areas.

(6) In designing and implementing the project the secretary shall consider the report of the Washington rural health care commission established under chapter 207, Laws of 1988. Nothing in this chapter requires the secretary to follow any specific recommendation contained in that report except as it may also be included in this chapter.

NEW SECTION. Sec. 704. The department shall adopt rules consistent with this chapter to carry out the purpose of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW. All rules and procedures adopted by the department shall minimize paperwork and compliance requirements for participants and should not be complex in nature so as to serve as a barrier or disincentive for prospective participants applying for the project.

NEW SECTION. Sec. 705. The secretary shall have the following powers and duties:

(1) To design the project application and selection process, including a program to advertise the project to rural communities and encourage prospective applicants to apply. Up to six project sites shall be selected which are eligible to receive seed grant funding. Funding shall be used to hire consultants and perform other activities necessary to meet participant requirements defined in this chapter. In considering selection of participants eligible for seed grant funding, the secretary should consider project sites where (a) existing access to health care is severely inadequate, (b) where a financially vulnerable health care facility is present, (c) where a financially vulnerable health care facility is present and an adjoining community in the same catchment area has a competing facility, or (d) where improvements in the delivery of primary care services, including preventive care services, is needed.

Up to six additional project sites shall be selected which receive no funding. The secretary shall select unfunded project sites based upon merit and to the extent possible, based upon the desire to address specific health status outcomes;

(2) To design acceptable outcome measures which are based upon health status outcomes and are to be part of the community plan, to work with communities to set acceptable local outcome targets in the health care delivery system strategic plan, and to serve as a general resource to participants in the planning, administration, and evaluation of project sites;

(3) To assess and approve community strategic plans developed by participants, including an assessment of the technical and financial feasibility of implementing the plan and whether adequate local support for the plan is demonstrated;

(4) To define health care catchment areas, identify financially vulnerable health care facilities, and to identify rural populations which are not receiving adequate health care services;

(5) To identify existing private and public resources which may serve as eligible consultants, identify technical assistance resources for communities in the project, create a register of public and private technical resource services available and provide the register to participants. The secretary shall screen consultants to determine their qualifications prior to including them on the register;

(6) To work with other state agencies, institutions of higher education, and other public and private organizations to coordinate technical assistance services for participants;

(7) To administer available funds for community use while participating in the project and establish procedures to assure accountability in the use of seed grant funds by participants;

(8) To define data and other minimum requirements for adequate evaluation of projects and to develop and implement an overall monitoring and evaluation mechanism for the projects;

(9) To act as facilitator for multiple applicants and entrants to the project;

(10) To report to the appropriate legislative committees and others from time to time on the progress of the projects including the identification of statutory and regulatory barriers to successful completion of rural health care delivery goals and an ongoing evaluation of the project.

NEW SECTION. Sec. 706. The duties and responsibilities of participating communities shall include:

(1) To involve major health care providers, businesses, public officials, and other community leaders in project design, administration, and oversight;

(2) To identify an individual or organization to serve as the local administrator of the project. The secretary may require the local administrator to maintain acceptable accountability of seed grant funding;

(3) To coordinate and avoid duplication of public health and other health care services;

(4) To assess and analyze community health care needs;

(5) To identify services and providers necessary to meet needs;

(6) To develop outcome measures to assess the long-term effectiveness of modifications initiated through the project;

(7) To write a health care delivery system strategic plan including to the extent possible, identification of outcome measures needed to achieve

health status outcomes identified in the plan. New organizational structures created should integrate existing programs and activities of local health providers so as to maximize the efficient planning and delivery of health care by local providers and promote more accessible and affordable health care services to rural citizens. Participants should create health care delivery system strategic plans which promote health care services which the participant can financially sustain;

(8) To screen and contract with consultants for technical assistance if the project site was selected to receive funding and assistance is needed;

(9) To monitor and evaluate the project in an ongoing manner;

(10) To implement necessary changes as defined in the plans such as converting existing facilities, developing or modifying services, recruiting providers, or obtaining agreements with other communities to provide some or all health care services; and

(11) To provide data and comply with other requirements of the administrator that are intended to evaluate the effectiveness of the projects.

NEW SECTION. Sec. 707. (1) The secretary may call upon other agencies of the state to provide available information to assist the secretary in meeting the responsibilities under this chapter. This information shall be supplied as promptly as circumstances permit.

(2) The secretary may call upon other state agencies including institutions of higher education as authorized under Title 28B RCW to identify and coordinate the delivery of technical assistance services to participants in meeting the responsibilities of this chapter. The state agencies and institutions of higher education shall cooperate and provide technical assistance to the secretary to the extent that current funding for these agencies and institutions of higher education permits.

NEW SECTION. Sec. 708. In addition to the powers and duties specified in section 705 of this act the secretary has the power to enter into contracts for the following functions and services:

(1) With public or private agencies, to assist the secretary in the secretary's duties to design or revise the health status outcomes, or to monitor or evaluate the performance of participants.

(2) With public or private agencies, to provide technical or professional assistance to project participants.

NEW SECTION. Sec. 709. (1) Participants are authorized to use funding granted to them by the secretary for the purpose of contracting for technical assistance services. Participants shall use only consultants identified by the secretary for consulting services unless the participant can show that an alternative consultant is qualified to provide technical assistance and is approved by the secretary. Adequate records shall be kept by the participant showing project site expenditures from grant moneys. Inappropriate use of grant funding shall be a gross misdemeanor.

(2) In providing a list of qualified consultants the secretary and the state shall not be held responsible for assuring qualifications of consultants and shall be held harmless for the actions of consultants. Furthermore, the secretary and the state shall not be held liable for the failure of participants to meet contractual obligations established in connection with project participation.

NEW SECTION. Sec. 710. (1) The department shall establish and adopt such standards and regulations pertaining to the construction, maintenance, and operation of a rural health care facility and the scope of health care services, and rescind, amend, or modify such regulations from time to time as necessary in the public interest. In developing the regulations, the department shall consult with representatives of rural hospitals, community mental health centers, public health departments, community and migrant health clinics, and other providers of health care in rural communities. The department shall also consult with third-party payers, consumers, local officials, and others to insure broad participation in defining regulatory standards and requirements that are appropriate for a rural health care facility.

(2) When developing the rural health care facility licensure rules, the department shall consider the report of the Washington rural health care commission established under chapter 207, Laws of 1988. Nothing in this chapter requires the department to follow any specific recommendation contained in that report except as it may also be included in this chapter.

(3) Upon developing rules, the department shall enter into negotiations with appropriate federal officials to seek medicare approval of the facility and financial participation of medicare and other federal programs in developing and operating the rural health care facility.

(4) The department shall report periodically to the appropriate committees of the legislature on the progress of rule development and negotiations with the federal government.

NEW SECTION. Sec. 711. In developing the rural health care facility licensure regulations, the department shall:

(1) Minimize regulatory requirements to permit local flexibility and innovation in providing services;

(2) Promote the cost-efficient delivery of health care and other social services as is appropriate for the particular local community;

(3) Promote the delivery of services in a coordinated and nonduplicative manner;

(4) Maximize the use of existing health care facilities in the community;

(5) Permit regionalization of health care services when appropriate;

(6) Provide for linkages with hospitals, tertiary care centers, and other health care facilities to provide services not available in the facility; and

(7) Achieve health care outcomes defined by the community through a community planning process.

NEW SECTION. Sec. 712. The rural health care facility is not considered a hospital for building occupancy purposes.

NEW SECTION. Sec. 713. (1) The legislature finds that a current shortage of nurses exists in many areas of the state as well as in certain nurse specialties. Surveys of nurses in Washington state evidenced a need for more accessible education for advancement to higher levels of practice.

The legislature declares that there is a need for the development of a state-wide plan for nursing education to meet the educational needs of nurses and the health care needs of the citizens of Washington state.

(2) The higher education coordinating board, in consultation with at least the state board of nursing, the state board of practical nursing, representatives of the state board for community college education, the superintendent of public instruction, public and private nursing education, health care facilities, and practicing nurses, shall develop a state-wide plan to be implemented no later than January 1, 1992. The plan shall provide for:

(a) Geographic availability of nursing education and training programs;

(b) Curriculum standards for each type of nursing education and training program;

(c) Procedures to facilitate optimal transfer or granting of course credit; and

(d) The use of evaluation processes, which may include challenge exams, to maximize opportunities for receiving credit for both knowledge and clinical skills.

The higher education coordinating board shall submit a plan to the legislature by December 1, 1990. The board shall make a progress report to the senate and house of representatives standing committees on health care by December 1, 1989.

***NEW SECTION.** Sec. 714. (1) *The legislature finds that a shortage of physicians, nurses, and physician assistants exists in rural areas of the state. In addition, many education programs to train these health care providers do not include options for practical training experience in rural settings. As a result, many health care providers find their current training does not prepare them for the unique demands of rural practice.*

The legislature declares that the availability of rural training opportunities as a part of professional medical, nursing, and physician assistant education would provide needed practical experience, serve to attract providers to rural areas, and help address the current shortage of these providers in rural Washington.

(2) *The higher education coordinating board, in consultation with at least the state board for community college education, the superintendent of public instruction, and state-supported education programs in medicine and nursing, shall develop a plan for increasing rural training opportunities for students in medicine and nursing. The plan shall provide for direct exposure*

to rural health professional practice conditions for students planning careers in rural medicine and nursing.

(3) The boards and the medical and nurse education programs shall:

(a) Inventory existing rural-based clinical experience programs, including internships, clerkships, residencies, and other training opportunities available to students pursuing degrees in nursing and medicine;

(b) Identify where training opportunities do not currently exist and are needed;

(c) Develop recommendations for improving the availability of rural training opportunities;

(d) Develop recommendations on establishing agreements between education programs to assure that all students in medical and nurse education programs in the state have access to rural training opportunities; and

(e) Review private and public funding sources to finance rural-based training opportunities.

(4) The higher education coordinating board shall report to the house of representatives and senate standing committees on health care by December 1, 1989, with their findings and recommendations including needed legislative changes.

****Sec. 714 was vetoed, see message at end of chapter.***

NEW SECTION. Sec. 715. (1) The legislature finds that a shortage of trained radiologic technologists, respiratory therapists, and pharmacy and laboratory technologists exists in rural areas of the state. In addition, low patient volumes in rural hospitals and primary care clinics make it financially difficult to hire and retain separate individuals with skills from each of these professions. The result is that health care services that could be provided locally are often not provided and patients are forced to go to urban areas for care.

The legislature declares that some limited cross-credentialing of health professionals with skills from one or more of these professions would be desirable in rural areas where shortages exist. The legislature further declares that the cross-credentialing of health professionals should not result in a reduction in the quality of health care provided by such individuals.

(2) The department of health, in consultation with the board of health, the higher education coordinating board, representatives of rural hospitals and rural primary health care clinics, and other entities that the department of health wishes to consult with, shall investigate opportunities for the development of a pool of individuals who are cross-trained with skills in radiology, respiratory therapy, and pharmacy and laboratory technology.

(3) The department shall:

(a) Determine whether there is a need for health care professionals with multiple skills in rural areas;

(b) Determine whether individuals can be cross-credentialed for multiple skills without a reduction in the quality of health care;

(c) Examine current training, education and state credentialing requirements for each of the affected professions;

(d) Identify what training and educational requirements are needed to allow for the medical practice of individuals with multiple skills;

(e) Develop recommendations on changes in current credentialing requirements to allow for credentialing of individuals with multiple skills; and

(f) Develop recommendations on whether the practice of cross-credentialed individuals should be limited to rural areas of the state.

(4) The department shall report to the house of representatives committee on health care and the senate committee on health care and corrections by December 1, 1990, on the need for changes in current credentialing requirements for the affected professions.

(5) The sum of forty-five thousand four hundred ninety-three dollars, or as much thereof as may be necessary, is appropriated from the health professions account to the department of health for the biennium ending June 30, 1991, to carry out the purposes of this section.

NEW SECTION. Sec. 716. The legislature finds that changes in demographics, the delivery of health care services, and an escalation in the cost of educating health professionals has resulted in shortages of health professionals. A poor distribution of health care professionals has resulted in a surplus of some professionals in some areas of the state and a shortage of others in other parts of the state such as in the more rural areas. The high cost of health professional education requires that health care practitioners command higher incomes to repay the financial obligations incurred to obtain the required training. Health professional shortage areas are often areas that have troubled economies and lower per capita incomes. These areas often require more services because the health care needs are greater due to poverty or because the areas are difficult to service due to geographic circumstances. The salary potentials for shortage areas are often not as favorable when compared to nonshortage areas and practitioners are unable to serve. The legislature further finds that encouraging health professionals to serve in shortage areas is essential to assure continued access to health care for persons living in these parts of the state.

NEW SECTION. Sec. 717. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Loan repayment" means a loan that is paid in full or in part if the participant renders health care services in a health professional shortage area or medically underserved areas as defined by the department of health.

(2) "Participant" means a licensed health professional who has commenced practice as a primary care provider in a designated health professional shortage area.

(3) "Board" means the higher education coordinating board.

(4) "Health professional shortage areas" means those geographic areas where health professionals are in short supply as a result of geographic

maldistribution and where vacancies exist in serious numbers that jeopardize patient care and pose a threat to the public health and safety. The department of health shall determine health professional shortage areas in the state guided by federal standards of "health manpower shortage areas," and "medically underserved areas," and "medically underserved populations."

(5) "Satisfied" means paid-in-full.

(6) "Licensed health professional" means a person authorized in the state of Washington to practice medicine pursuant to chapter 18.57 or 18.57A RCW or 18.71 or 18.71A RCW, to practice nursing pursuant to chapter 18.88 or 18.78 RCW, or to practice dentistry pursuant to chapter 18.32 RCW.

NEW SECTION. Sec. 718. The health professional loan repayment program is established for licensed health professionals serving in health professional shortage areas. The program shall be administered by the higher education coordinating board. In administering this program, the board shall have the following duties:

(1) It shall select licensed health professionals to participate in the loan repayment program;

(2) It shall adopt rules to administer the program;

(3) It shall publicize the program; and

(4) It shall solicit and accept grants and donations from public and private sources for the program.

NEW SECTION. Sec. 719. The board shall establish a planning committee to assist it in developing criteria for the selection of participants. The board shall, at a minimum, include on the planning committee: Representatives from rural hospitals; public health districts or departments; community and migrant clinics; and private providers.

NEW SECTION. Sec. 720. The board may grant loan repayment awards to eligible participants from the funds appropriated for this purpose, or from any private or public funds given to the board for this purpose. The amount of the loan repayment shall not exceed fifteen thousand dollars per year for a maximum of five years. The board may establish awards of less than fifteen thousand dollars per year based upon reasonable levels of expenditures for each of the health professions covered by this chapter. Participants in the conditional scholarship program authorized by chapter 28B.104 RCW are ineligible to receive assistance from the program authorized by this chapter.

NEW SECTION. Sec. 721. Participants in the health professional loan repayment program shall receive payment from the program for the purpose of repaying educational loans secured while attending a program of health professional training which led to licensure as a licensed health professional in the state of Washington.

(1) Participants shall agree to serve at least three years in a designated health professional shortage area.

(2) In providing health care services the participant shall not discriminate against any person on the basis of the person's ability to pay for such services or because payment for the health care services provided to such persons will be made under the insurance program established under part A or B of Title XVIII of the federal social security act or under a state plan for medical assistance approved under Title XIX of the federal social security act and agrees to accept assignment under section 18.42(b)(3)(B)(ii) of such act for all services for which payment may be made under part B of Title XVIII and enters into an appropriate agreement with the department of social and health services for medical assistance under Title XIX to provide services to individuals entitled to medical assistance under the plan. Participants found by the board in violation of this section shall be declared ineligible for receiving assistance under the program authorized by this chapter.

(3) Repayment shall be limited to reasonable educational and living expenses as determined by the board and shall include principal and interest.

(4) Loans from both government and private sources may be repaid by the program. Participants shall agree to allow the board access to loan records and to acquire information from lenders necessary to verify eligibility and to determine payments. Loans may not be renegotiated with lenders to accelerate repayment.

(5) Repayment of loans established pursuant to this program shall begin no later than ninety days after the individual has become a participant. Payments shall be made quarterly, or more frequently if deemed appropriate by the board, to the participant until the loan is repaid or the participant becomes ineligible due to discontinued service in a health professional shortage area or after the fifth year of services when eligibility discontinues, whichever comes first.

(6) Should the participant discontinue service in a health professional shortage area payments against the loans of the participants shall cease to be effective on the date that the participant discontinues service.

(7) Except for circumstances beyond their control, participants who serve less than three years shall be obligated to repay to the program an amount equal to twice the total amount paid by the program on their behalf in addition to any payments on the unsatisfied portion of the principal and interest. The board shall determine the applicability of this subsection.

(8) The board is responsible for the collection of payments made on behalf of participants from the participants who discontinue service before their three-year obligation. The board shall exercise due diligence in such collection, maintaining all necessary records to ensure that the maximum

amount of payment made on behalf of the participant is recovered. Collection under this section shall be pursued using the full extent of the law, including wage garnishment if necessary.

(9) The board shall not be held responsible for any outstanding payments on principal and interest to any lenders once a participant's eligibility expires.

NEW SECTION. Sec. 722. After consulting with the higher education coordinating board, the governor may transfer the administration of this program to another agency with an appropriate mission.

NEW SECTION. Sec. 723. No loan repayment may be awarded after June 30, 1995.

PART VIII MISCELLANEOUS

NEW SECTION. Sec. 801. All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in section 201 and sections 236 through 250 of this act.

NEW SECTION. Sec. 802. All references to the director of licensing or department of licensing in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in section 301 of this act.

NEW SECTION. Sec. 803. All references to the hospital commission in the Revised Code of Washington shall be construed to mean the secretary or the department of health.

NEW SECTION. Sec. 804. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of social and health services, department of licensing, board of pharmacy, and hospital commission relating to the powers, functions, and duties transferred by this act, shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of social and health services, department of licensing, hospital commission, and board of pharmacy in carrying out the powers, functions, and duties transferred by this act, shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred by this act, shall be assigned to the department of health.

Any appropriations made to the department of social and health services, department of licensing, hospital commission, and board of pharmacy for carrying out the powers, functions, and duties transferred by this act, shall, on the effective date of this section, and upon the approval of the director of the office of financial management be transferred and credited to

the department of health. The transfer of funds shall additionally include funds appropriated to the department of social and health services for the support of regional health planning.

Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

NEW SECTION. Sec. 805. All positions of the department of social and health services, including the health planning program of the department of social and health services, the department of licensing, the hospital commission, and the board of pharmacy determined to be necessary by the director of the office of financial management for the performance of the powers, functions, and duties transferred by this act, shall be transferred to the jurisdiction of the department of health. All employees assigned to such classified positions under chapter 41.06 RCW, the state civil service law, are assigned to the department of health, effective upon approval of the director of the office of financial management as outlined in section 804 of this act, to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

NEW SECTION. Sec. 806. All rules and all pending business before the department of social and health services, department of licensing, board of pharmacy, and hospital commission pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All contracts and obligations existing at the time of the transfer shall remain in full force and shall be performed by the department of health.

NEW SECTION. Sec. 807. The transfer of the powers, duties, functions, and personnel of the department of social and health services, department of licensing, board of pharmacy, and hospital commission shall not affect the validity of any act performed prior to the effective date of this section.

NEW SECTION. Sec. 808. If apportionments of budgeted funds are required because of the transfers directed by sections 804 through 807 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 809. Nothing contained in sections 801 through 808 of this act may be construed to alter any existing collective bargaining

unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

Sec. 810. Section 1, chapter 10, Laws of 1979 as last amended by section 2, chapter 506, Laws of 1987 and RCW 43.17.010 are each amended to read as follows:

There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department of fisheries, (6) the department of wildlife, (7) the department of transportation, (8) the department of licensing, (9) the department of general administration, (10) the department of trade and economic development, (11) the department of veterans affairs, (12) the department of revenue, (13) the department of retirement systems, (14) the department of corrections, ~~((and))~~ (15) the department of community development, and (16) the department of health, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

Sec. 811. Section 2, chapter 10, Laws of 1979 as last amended by section 3, chapter 506, Laws of 1987 and RCW 43.17.020 are each amended to read as follows:

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fisheries, (6) the director of wildlife, (7) the secretary of transportation, (8) the director of licensing, (9) the director of general administration, (10) the director of trade and economic development, (11) the director of veterans affairs, (12) the director of revenue, (13) the director of retirement systems, (14) the secretary of corrections, ~~((and))~~ (15) the director of community development, and (16) the secretary of health.

Such officers, except the secretary of transportation, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor ~~((: PROVIDED, That))~~. The director of wildlife, however, shall be appointed according to the provisions of RCW 77.04.080. If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate. A temporary director of wildlife shall not serve more than one year. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. ~~((There is appropriated from the general fund to the department of wildlife for the biennium ending June 30, 1989, the sum of eight million dollars. PROVIDED, That four million five hundred thousand dollars of this appropriation shall revert to the general fund if the comprehensive spending plan submitted to the legislature under RCW~~

~~77.04.055(2) is rejected by the legislature in the 1988 session: PROVIDED FURTHER, That three million five hundred thousand dollars of this appropriation may be expended by the department of wildlife without regard to approval of the comprehensive spending plan:))~~

Sec. 812. Section 2, chapter 34, Laws of 1984 as last amended by section 13, chapter 36, Laws of 1988 and RCW 42.17.2401 are each amended to read as follows:

For the purposes of RCW 42.17.240, the term "executive state officer" includes:

(1) The chief administrative law judge, the director of financial management, the director of personnel, the director of community development, the director of the state system of community colleges, the secretary of health, the director of the department of information services, the executive secretary of the forest practices appeals board, the director of the gambling commission, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the ~~((board of prison terms and paroles))~~ indeterminate sentence review board, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college;

(2) Each professional staff member of the office of the governor;

(3) Each professional staff member of the legislature; and

(4) Each member of the state board for community college education, information services board, forest practices board, forest practices appeals board, gambling commission, wildlife commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, personnel appeals board, ~~((board of prison terms and paroles))~~ indeterminate sentence review board, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees, Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, state housing finance commission, and the utilities and transportation commission.

NEW SECTION. Sec. 813. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions under RCW 41.06.070, the provisions of this chapter shall not apply in the department of health to any deputy secretary, assistant secretary, or person who administers the necessary divisions, offices, bureaus, and programs and five additional positions involved in policy or program direction.

***NEW SECTION.** Sec. 814. *(1) The department of social and health services shall monitor the treatment programs provided under chapter 70.96A RCW and shall collect and maintain relevant demographic data regarding persons receiving treatment services under chapter 70.96A RCW and persons receiving general assistance – unemployable benefits based on an incapacity of alcoholism and drug addiction. The department also shall monitor contracted service providers to ensure conformance with the statutory priorities.*

(2) The department shall report the results of the data collection and monitoring provided for in subsection (1) of this section to appropriate committees of the legislature on or before December 1, 1989, and December 1, 1990.

(3) The department of social and health services shall contract with the University of Washington alcoholism and drug abuse institute to evaluate the outcomes of the treatment programs provided under chapter 70.96A RCW. The evaluation shall include assessments of treatment outcomes for a sample number of participants selected at random and monitored over at least a one-year period. The results of the evaluation shall be reported to appropriate committees of the legislature on or before December 1, 1990.

*Sec. 814 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 815. A new section is added to chapter 70.—RCW (sections 14 through 34, chapter ..., Laws of 1989 (ESHB 1968)) to read as follows:

(1) Unless the context clearly requires otherwise, these definitions shall apply throughout this section and sections 36, 37, 38, 39, 40, and 41, chapter ..., Laws of 1989 (ESHB 1968):

(a) "Adult family home" means a facility licensed pursuant to chapter 70.—RCW (sections 14 through 34, chapter ..., Laws of 1989 (ESHB 1968)) or the regular family abode of a person or persons who are providing personal care, room, and board to one adult not related by blood or marriage to the person providing the services.

(b) "Residential care facility" means a facility that cares for at least five, but not more than fifteen functionally disabled persons, that is not licensed pursuant to chapter 70.—RCW (sections 14 through 34, chapter ..., Laws of 1989 (ESHB 1968)).

(c) "Department" means the department of social and health services.

(2) An adult family home shall be considered a residential use of property for zoning purposes. Adult family homes shall be a permitted use

in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings.

Sec. 816. Section 1, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 31, chapter 75, Laws of 1987 and by section 9, chapter 406, Laws of 1987 and RCW 74.04.005 are each reenacted and amended to read as follows:

For the purposes of this title, unless the context indicates otherwise, the following definitions shall apply:

(1) "Public assistance" or "assistance"—Public aid to persons in need thereof for any cause, including services, medical care, assistance grants, disbursing orders, work relief, general assistance and federal-aid assistance.

(2) "Department"—The department of social and health services.

(3) "County or local office"—The administrative office for one or more counties or designated service areas.

(4) "Director" or "secretary" means the secretary of social and health services.

(5) "Federal-aid assistance"—The specific categories of assistance for which provision is made in any federal law existing or hereafter passed by which payments are made from the federal government to the state in aid or in respect to payment by the state for public assistance rendered to any category of needy persons for which provision for federal funds or aid may from time to time be made, or a federally administered needs-based program.

(6) (a) "General assistance"—Aid to persons in need who:

(i) Are not eligible to receive federal-aid assistance, other than food stamps and medical assistance; however, an individual who refuses or fails to cooperate in obtaining federal-aid assistance, without good cause, is not eligible for general assistance;

(ii) Are either:

(A) Pregnant: PROVIDED, That need is based on the current income and resource requirements of the federal aid to families with dependent children program: PROVIDED FURTHER, That during any period in which an aid for dependent children employable program is not in operation, only those pregnant women who are categorically eligible for medicaid are eligible for general assistance; or

(B) Incapacitated from gainful employment by reason of bodily or mental infirmity that will likely continue for a minimum of sixty days as determined by the department. Persons who are unemployable due to alcohol or drug addiction are not eligible for general assistance. Persons receiving general assistance on July 26, 1987, or becoming eligible for such assistance thereafter, due to an alcohol or drug-related incapacity, shall be referred to appropriate assessment, treatment, shelter, or supplemental security income referral services as authorized under chapter 74.50 RCW.

Referrals shall be made at the time of application or at the time of eligibility review. Alcoholic and drug addicted clients who are receiving general assistance on July 26, 1987, may remain on general assistance if they otherwise retain their eligibility until they are assessed for services under chapter 74.50 RCW. This subsection (6)(a)(ii)(B) shall not be construed to prohibit the department from granting general assistance benefits to alcoholics and drug addicts who are incapacitated due to other physical or mental conditions that meet the eligibility criteria for the general assistance program;

(iii) Are citizens or aliens lawfully admitted for permanent residence or otherwise residing in the United States under color of law; and

(iv) Have furnished the department their social security account number. If the social security account number cannot be furnished because it has not been issued or is not known, an application for a number shall be made prior to authorization of assistance, and the social security number shall be provided to the department upon receipt.

(b) Notwithstanding the provisions of subsection (6)(a)(i), (ii), and (c) of this section, general assistance shall be provided to the following recipients of federal-aid assistance:

(i) Recipients of supplemental security income whose need, as defined in this section, is not met by such supplemental security income grant because of separation from a spouse; or

(ii) To the extent authorized by the legislature in the biennial appropriations act, to recipients of aid to families with dependent children whose needs are not being met because of a temporary reduction in monthly income below the entitled benefit payment level caused by loss or reduction of wages or unemployment compensation benefits or some other unforeseen circumstances. The amount of general assistance authorized shall not exceed the difference between the entitled benefit payment level and the amount of income actually received.

(c) General assistance shall be provided only to persons who are not members of assistance units receiving federal aid assistance, except as provided in subsection (6) (a)(ii)(A) and (b) of this section, and will accept available services which can reasonably be expected to enable the person to work or reduce the need for assistance unless there is good cause to refuse. Failure to accept such services shall result in termination until the person agrees to cooperate in accepting such services and subject to the following maximum periods of ineligibility after reapplication:

(i) First failure: One week;

(ii) Second failure within six months: One month;

(iii) Third and subsequent failure within one year: Two months.

(d) The department shall adopt by rule medical criteria for general assistance eligibility to ensure that eligibility decisions are consistent with

statutory requirements and are based on clear, objective medical information.

(e) The process implementing the medical criteria shall involve consideration of opinions of the treating or consulting physicians or health care professionals regarding incapacity, and any eligibility decision which rejects uncontroverted medical opinion must set forth clear and convincing reasons for doing so.

(f) Recipients of general assistance who remain otherwise eligible shall not have their benefits terminated absent a clear showing of material improvement in their medical or mental condition or specific error in the prior determination that found the recipient eligible by reason of incapacitation.

(7) "Applicant"—Any person who has made a request, or on behalf of whom a request has been made, to any county or local office for assistance.

(8) "Recipient"—Any person receiving assistance and in addition those dependents whose needs are included in the recipient's assistance.

(9) "Standards of assistance"—The level of income required by an applicant or recipient to maintain a level of living specified by the department.

(10) "Resource"—Any asset, tangible or intangible, owned by or available to the applicant at the time of application, which can be applied toward meeting the applicant's need, either directly or by conversion into money or its equivalent: PROVIDED, That an applicant may retain the following described resources and not be ineligible for public assistance because of such resources.

(a) A home, which is defined as real property owned and used by an applicant or recipient as a place of residence, together with a reasonable amount of property surrounding and contiguous thereto, which is used by and useful to the applicant. Whenever a recipient shall cease to use such property for residential purposes, either for himself or his dependents, the property shall be considered as a resource which can be made available to meet need, and if the recipient or his dependents absent themselves from the home for a period of ninety consecutive days such absence, unless due to hospitalization or health reasons or a natural disaster, shall raise a rebuttable presumption of abandonment: PROVIDED, That if in the opinion of three physicians the recipient will be unable to return to the home during his lifetime, and the home is not occupied by a spouse or dependent children or disabled sons or daughters, such property shall be considered as a resource which can be made available to meet need.

(b) Household furnishings and personal effects and other personal property having great sentimental value to the applicant or recipient, as limited by the department consistent with limitations on resources and exemptions for federal aid assistance.

(c) A motor vehicle, other than a motor home, used and useful having an equity value not to exceed one thousand five hundred dollars.

(d) All other resources, including any excess of values exempted, not to exceed one thousand dollars or other limit as set by the department, to be consistent with limitations on resources and exemptions necessary for federal aid assistance.

(e) Applicants for or recipients of general assistance may retain the following described resources in addition to exemption for a motor vehicle or home and not be ineligible for public assistance because of such resources:

(i) Household furnishings, personal effects, and other personal property having great sentimental value to the applicant or recipient;

(ii) Term and burial insurance for use of the applicant or recipient;

(iii) Life insurance having a cash surrender value not exceeding one thousand five hundred dollars; and

(iv) Cash, marketable securities, and any excess of values above one thousand five hundred dollars equity in a vehicle and above one thousand five hundred dollars in cash surrender value of life insurance, not exceeding one thousand five hundred dollars for a single person or two thousand two hundred fifty dollars for a family unit of two or more. The one thousand dollar limit in subsection (10)(d) of this section does not apply to recipients of or applicants for general assistance.

(f) If an applicant for or recipient of public assistance possesses property and belongings in excess of the ceiling value, such value shall be used in determining the need of the applicant or recipient, except that: (i) The department may exempt resources or income when the income and resources are determined necessary to the applicant's or recipient's restoration to independence, to decrease the need for public assistance, or to aid in rehabilitating the applicant or recipient or a dependent of the applicant or recipient; and (ii) the department may provide grant assistance to persons who are otherwise ineligible because of excess real property owned by such persons when they are making a good faith effort to dispose of that property, but the recipient must sign an agreement to dispose of the property and repay assistance payments made to the date of disposition of the property which would not have been made had the disposal occurred at the beginning of the period for which the payments of such assistance were made. In no event shall such amount due the state exceed the net proceeds otherwise available to the recipient from the disposition, unless after nine months from the date of the agreement the property has not been sold, or if the recipient's eligibility for financial assistance ceases for any other reason. In these two instances the entire amount of assistance paid during this period will be treated as an overpayment and a debt due the state, and may be recovered pursuant to RCW 43.20B.630.

(11) "Income"—(a) All appreciable gains in real or personal property (cash or kind) or other assets, which are received by or become available for use and enjoyment by an applicant or recipient during the month of application or after applying for or receiving public assistance(~~(--PROVIDED, That))~~. The department may by rule and regulation exempt income received by an applicant for or recipient of public assistance which can be used by him to decrease his need for public assistance or to aid in rehabilitating him or his dependents, but such exemption shall not, unless otherwise provided in this title, exceed the exemptions of resources granted under this chapter to an applicant for public assistance(~~(--PROVIDED FURTHER, That))~~. In determining the amount of assistance to which an applicant or recipient of aid to families with dependent children is entitled, the department is hereby authorized to disregard as a resource or income the earned income exemptions consistent with federal requirements(~~(--PROVIDED FURTHER,))~~. The department may permit the above exemption of earnings of a child to be retained by such child to cover the cost of special future identifiable needs even though the total exceeds the exemptions or resources granted to applicants and recipients of public assistance, but consistent with federal requirements. In formulating rules and regulations pursuant to this chapter, the department shall define income and resources and the availability thereof, consistent with federal requirements. All resources and income not specifically exempted, and any income or other economic benefit derived from the use of, or appreciation in value of, exempt resources, shall be considered in determining the need of an applicant or recipient of public assistance.

(b) If, under applicable federal requirements, the state has the option of considering property in the form of lump sum compensatory awards or related settlements received by an applicant or recipient as income or as a resource, the department shall consider such property to be a resource.

(12) "Need"—The difference between the applicant's or recipient's standards of assistance for himself and the dependent members of his family, as measured by the standards of the department, and value of all nonexempt resources and nonexempt income received by or available to the applicant or recipient and the dependent members of his family.

(13) For purposes of determining eligibility for public assistance and participation levels in the cost of medical care, the department shall exempt restitution payments made to people of Japanese and Aleut ancestry pursuant to the Civil Liberties Act of 1988 and the Aleutian and Pribilof Island Restitution Act passed by congress, P.L. 100-383, including all income and resources derived therefrom.

(14) In the construction of words and phrases used in this title, the singular number shall include the plural, the masculine gender shall include both the feminine and neuter genders and the present tense shall include the

past and future tenses, unless the context thereof shall clearly indicate to the contrary.

Sec. 817. Section 2, chapter 131, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 321, Laws of 1977 ex. sess. and RCW 74.38.020 are each amended to read as follows:

As used in this chapter, the following words and phrases shall have the following meaning unless the content clearly requires otherwise:

(1) "Area agency" means an agency, other than a state agency, designated by the department to carry out programs or services approved by the department in a designated geographical area of the state.

(2) "Area plan" means the document submitted annually by an area agency to the department for approval which sets forth (a) goals and measurable objectives, (b) review of past expenditures and accounting of revenue for the previous year, (c) estimated revenue and expenditures for the ensuing year, and (d) the planning, coordination, administration, social services, and evaluation activities to be undertaken to carry out the purposes of the Older Americans Act of 1965 (42 U.S.C. Sec. 3024 et. seq.), as now or hereafter amended.

(3) "Department" means the department of social and health services.

(4) "Office" shall mean the office on aging which is the organizational unit within the department responsible for coordinating and administering aging problems.

(5) "Eligible persons" means senior citizens who are:

(a) Sixty-five years of age or more; or

(b) Sixty years of age or more and are either (i) nonemployed, or (ii) employed for twenty hours per week or less; and

(c) In need of services to enable them to remain in their customary homes because of physical, mental, or other debilitating impairments.

(6) "Low income" means initial resources or subsequent income at or below forty percent of the state median income as promulgated by the secretary of the United States department of health, education and welfare for Title XX of the Social Security Act, or, in the alternative, a level determined by the department and approved by the legislature.

(7) "Income" shall have the same meaning as ((~~RCW 74.04.005(12)~~)) in chapter 74.04 RCW, as now or hereafter amended; except, that money received from RCW 74.38.060 shall be excluded from this definition.

(8) "Resource" shall have the same meaning as ((~~RCW 74.04.005(11)~~)) in chapter 74.04 RCW, as now or hereafter amended.

(9) "Need" shall have the same meaning as ((~~RCW 74.04.005(13)~~)) in chapter 74.04 RCW, as now or hereafter amended.

NEW SECTION. Sec. 818. (1) The sum of five hundred thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of health for the purposes of implementation of the rural health care project

authorized by this act on condition that at least ninety percent of these funds are used for seed grant awards and the provision of technical assistance to participating rural communities.

(2) The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the department of health for the purposes of implementation of the loan forgiveness program for rural health professionals authorized under this act.

NEW SECTION. Sec. 819. The following acts or parts of acts are each repealed:

- (1) Section 3, chapter 252, Laws of 1987 and RCW 18.32.326;
- (2) Section 4, chapter 43, Laws of 1957 and RCW 18.34.040;
- (3) Section 61, chapter 279, Laws of 1984 and RCW 43.24.075;
- (4) Section 5, chapter 161, Laws of 1979 ex. sess., section 4, chapter 139, Laws of 1980 and RCW 70.38.055;
- (5) Section 6, chapter 161, Laws of 1979 ex. sess., section 5, chapter 139, Laws of 1980, section 5, chapter 235, Laws of 1983 and RCW 70.38-.065;
- (6) Section 14, chapter 161, Laws of 1979 ex. sess. and RCW 70.38-.145;
- (7) Section 19, chapter 38, Laws of 1963, section 3, chapter 90, Laws of 1979 and RCW 18.64.007;
- (8) Section 4, chapter 161, Laws of 1979 ex. sess., section 3, chapter 139, Laws of 1980, section 4, chapter 235, Laws of 1983 and RCW 70.38-.045;
- (9) Section 8, chapter 161, Laws of 1979 ex. sess., section 6, chapter 139, Laws of 1980, section 6, chapter 235, Laws of 1983 and RCW 70.38-.085;
- (10) Section 3, chapter 161, Laws of 1979 ex. sess., section 3, chapter 235, Laws of 1983 and RCW 70.38.035; and
- (11) Section 35, chapter ... (ESHB 1968), Laws of 1989 and RCW 74.____.

NEW SECTION. Sec. 820. Sections 101 through 109, 201, 252, 262 through 264, 301, and 319 through 323 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 821. Sections 501 through 512 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 822. RCW 43.20A.140 and 43.24.072 are each recodified as sections in chapter 43.____ RCW, created by section 820 of this act.

NEW SECTION. Sec. 823. Sections 701 through 712 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 824. Sections 716 through 723 of this act shall constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 825. 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, 1989.

NEW SECTION. Sec. 826. 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.

Passed the Senate May 7, 1989.

Passed the House May 10, 1989.

Approved by the Governor May 31, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 31, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 105, 209, 302, 415, 512, 714, and 814, Engrossed Senate Bill No. 6152 entitled:

"AN ACT Relating to health."

I am pleased that you have sent me a bill creating a Department of Health which encompasses the full range of health issues. You have done considerable and admirable work on this piece of legislation, and it is my pleasure to sign the majority of this bill into law.

While a great number of the programs and policies contained in this bill are sound public policy, I am very concerned for the viability of this Department. When I originally proposed a Department of Health, we carefully and conservatively estimated the costs of transition and of various new programs. However, both the funding provided for the transition in the budget bill and the appropriations for new programs in this bill are grossly inadequate, leaving an estimated shortfall of nearly \$2 million. I cannot in good conscience allow this level of new unfunded programs in this Department.

Therefore, I am vetoing those sections of the bill which are not critical to the viability of the Department of Health. This message should not be construed as a statement in opposition to the policy of these sections, except where I have specifically noted. Although I have been forced to use my veto power, there remains a resource shortfall. Without vetoing the entire measure, there is no way I can eliminate the deficit. I am very disappointed that the Legislature did not fully fund this new Department and allow it to begin its duties with sufficient resources.

Section 105 requires that the State Health Officer hold the position of Deputy Secretary within the Department of Health and be subject to Senate confirmation. The requirement of Deputy Director confirmation by the Senate is unprecedented and inappropriate. The other requirements remove administrative flexibility from the executive branch. While I agree that there should be a person employed by the Department with the expertise as defined in this section, I do not agree that the position must be a Deputy Secretary. If I do not appoint a Secretary with the qualifications required by this section, I will ask the Secretary to hire such a person to fill an appropriate position.

Section 209 mandates an increase in staff to the Board of Health. The Board has been understaffed for years, but has been unsuccessful in obtaining the funding for staff support. Currently, the Board is allowed to hire an executive director and a

confidential secretary, but does not have sufficient funds to fill either of those positions. While I strongly support providing the Board of Health with needed assistance, I cannot support signing this section without the appropriate funding accompanying this mandated increase.

Section 302 requires the Department of Health to study and report on health care professional licensure needs. This is a subject deserving a coordinated review; however, I cannot support signing this section without an accompanying appropriation.

Section 415 amends RCW 18.64.044 which is also amended by section 401. Since the language within section 401 reflects the statute as amended by section 1, chapter 352, Laws of 1989 (HB 1478), I am vetoing section 415.

Section 512 requires the Department of Health to perform a biennial study of the State's expenditures on health care services, and submit that report to the Legislature. Since this study was not funded and the Legislature currently has the ability to request this type of information from each of the affected state agencies, I am vetoing this section.

Section 714 requires the Higher Education Coordinating Board (HECB) to develop a plan for increasing rural training opportunities for students in medicine and nursing by December 1, 1989. I agree that the training needed for working in rural settings is different from that needed for urban settings; however, I cannot support yet another unfunded study requirement of the HECB. Note, I would have also vetoed section 713 of this bill but we have the opportunity, given the delayed due date of that study, to come back and seek funding to carry out its purpose.

Section 814 requires the Department of Social and Health Services to monitor alcohol and drug treatment programs, to collect data on addicted persons who receive general assistance, and to contract with the University of Washington Alcoholism and Drug Abuse Institute to evaluate treatment outcomes. Although the purposes of this section are of value, no funds have been provided for these purposes. In order to collect this data, the Department would have to use a substantial portion of funds provided for treatment services. This diversion of treatment funds would impair the State's commitment to assist as many addicted persons as we can to overcome their addictions.

I strongly urge the Legislature to consider the impact of legislation on the budget before passing legislation. The unfunded programs and studies which I am returning to you without my approval are programs of merit. I strongly encourage you to revisit these issues, and to pass them again with appropriate funding.

With the exception of sections 105, 209, 302, 415, 512, 714, and 814, Engrossed Senate Bill No. 6152 is approved."

CHAPTER 10

[House Bill No. 2244]

MATERNITY CARE—ACCESS

AN ACT Relating to maternity care; amending RCW 74.09.510; adding new sections to chapter 74.09 RCW; creating a new section; and making appropriations.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. This act may be known and cited as the "maternity care access act of 1989."

NEW SECTION. Sec. 2. (1) The legislature finds that Washington state and the nation as a whole have a high rate of infant illness and death