
SENATE BILL 5088

State of Washington

67th Legislature

2021 Regular Session

By Senators Randall and Rivers

Prefiled 01/06/21.

1 AN ACT Relating to addressing a shortage of primary care services
2 by increasing the scope of practice of naturopathic physicians;
3 amending RCW 18.36A.040, 69.41.030, 69.41.030, and 69.50.101;
4 reenacting and amending RCW 18.36A.020 and 69.50.101; adding new
5 sections to chapter 18.36A RCW; creating a new section; providing an
6 effective date; and providing an expiration date.

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

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

9 (1) Washington has a shortage of primary care services that poses
10 a significant risk to public health resulting in increased human
11 suffering and increased costs. The coronavirus pandemic has added
12 strain on an already overburdened health care system, further
13 exposing the need to empower additional primary care providers to
14 practice to the full scope of their training.

15 (2) Naturopathic physicians, licensed under chapter 18.36A RCW
16 since 1987 and chapter 18.36 RCW since 1919, are recognized as
17 primary care providers in both statute and rule, and have served in
18 this role for many years through private health plans, in apple
19 health (medicaid), and with the Indian health service systems.

20 (3) In some areas, naturopathic physicians are the only available
21 health care providers. As such, they need authority for all

1 appropriate primary care services consistent with their education and
2 patient populations. This act supports better patient care, prevents
3 duplication of services, reduces emergency department visits, and is
4 more cost-effective for patients, health plans, and state agencies.

5 (4) Naturopathic medical training emphasizes behavioral health,
6 counseling, and lifestyle medicine in addition to conventional
7 medical diagnostics and treatments, including pharmaceutical
8 prescriptions. Many patients seek care with naturopathic physicians
9 in order to stop taking or lower their doses of prescription
10 medications. Most controlled substances cannot be stopped without a
11 careful dosage taper. Without expanded prescriptive authority,
12 naturopathic physicians are unable to meaningfully assist patients in
13 reducing their reliance on costly and habit-forming pharmaceuticals.

14 (5) The legislature first granted naturopathic physicians limited
15 prescriptive authority in 1987 and expanded this in 2005 to include
16 all legend drugs and limited controlled substances in Schedules III
17 through V of the uniform controlled substances act. This act is
18 consistent with the findings of the 2014 sunrise review in which the
19 department of health agreed with the health care authority arguments
20 in support of a limited expansion of naturopathic prescriptive
21 authority for controlled substances.

22 (6) This act recognizes the board of naturopathy (established by
23 the legislature in 2011), and its role in rule making for
24 determination of specific clinical parameters and educational
25 requirements in the same manner as other boards and commissions with
26 primary care authority.

27 NEW SECTION. **Sec. 2.** A new section is added to chapter 18.36A
28 RCW to read as follows:

29 (1) Subject to the requirements of this section, a naturopath may
30 prescribe and administer legend drugs and controlled substances
31 contained in Schedules III through V of the uniform controlled
32 substances act, chapter 69.50 RCW, as necessary in the practice of
33 naturopathy.

34 (2) A naturopath who prescribes controlled substances shall
35 register with the department to access the prescription monitoring
36 program established in chapter 70.225 RCW.

37 (3) By rule, the board shall establish education and training
38 requirements related to prescribing legend drugs and controlled
39 substances. A naturopath may prescribe and administer drugs pursuant

1 to subsection (1) of this section only if he or she satisfies the
2 education and training requirements established by the board.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.36A
4 RCW to read as follows:

5 A naturopath may sign and attest to any certificates, cards,
6 forms, or other required documentation that a physician may sign, so
7 long as it is within the naturopath's scope of practice. This
8 includes, but is not limited to, disability determinations, physician
9 orders for life-sustaining treatment, guardianships, powers of
10 attorney, and similar legal documents.

11 **Sec. 4.** RCW 18.36A.020 and 2011 c 41 s 3 and 2011 c 40 s 1 are
12 each reenacted and amended to read as follows:

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

15 (1) "Board" means the board of naturopathy created in RCW
16 18.36A.150.

17 (2) "Common diagnostic procedures" means the use of venipuncture
18 consistent with the practice of naturopathic medicine, commonly used
19 diagnostic modalities consistent with naturopathic practice, health
20 history taking, physical examination, radiography, examination of
21 body orifices excluding endoscopy, laboratory medicine, and obtaining
22 samples of human tissues, but excluding incision or excision beyond
23 that which is authorized as a minor office procedure.

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

25 (4) "Educational program" means an accredited program preparing
26 persons for the practice of naturopathic medicine.

27 (5) "Homeopathy" means a system of medicine based on the use of
28 infinitesimal doses of medicines capable of producing symptoms
29 similar to those of the disease treated, as listed in the homeopathic
30 pharmacopeia of the United States.

31 (6) "Hygiene and immunization" means the use of such preventative
32 techniques as personal hygiene, asepsis, public health, and
33 immunizations, to the extent allowed by rule.

34 (7) "Manual manipulation" or "mechanotherapy" means manipulation
35 of a part or the whole of the body by hand or by mechanical means.

36 (8) "Minor office procedures" means common primary care ((and))
37 services; procedures incident thereto of superficial lacerations,
38 lesions, ((and abrasions)) minor injuries, and the removal of foreign

bodies located in superficial structures, not to include the eye; and the use of antiseptics and topical or local anesthetics in connection therewith. "Minor office procedures" also includes ~~((intramuscular, intravenous, subcutaneous, and intradermal))~~ injections and topical applications of substances consistent with the practice of naturopathic medicine and in accordance with rules established by the ~~((secretary))~~ board.

(9) "Naturopath" means an individual licensed under this chapter.

(10) "Naturopathic medicines" means vitamins; minerals; botanical medicines; homeopathic medicines; hormones; and ~~((those legend drugs and controlled))~~ other nutrients, compounds, and natural substances consistent with naturopathic medical practice ~~((in accordance with rules established by the board. Controlled substances are limited to codeine and testosterone products that are contained in Schedules III, IV, and V in chapter 69.50 RCW))~~.

(11) "Nutrition and food science" means the prevention and treatment of disease or other human conditions through the use of foods, water, herbs, roots, bark, or natural food elements.

(12) "Physical modalities" means use of physical, chemical, electrical, and other modalities ~~((that do not exceed those used as of July 22, 2011, in minor office procedures or common diagnostic procedures,))~~ including, but not limited to, heat, cold, air, light, water in any of its forms, sound, massage, durable medical equipment, and therapeutic exercise.

(13) "Radiography" means the ordering, but not the interpretation, of radiographic diagnostic and other imaging studies and the taking and interpretation of standard radiographs.

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

~~(15))~~ "Suggestion" means techniques including but not limited to counseling, biofeedback, and hypnosis.

Sec. 5. RCW 18.36A.040 and 2011 c 40 s 2 are each amended to read as follows:

Naturopathic medicine is the practice by naturopaths of the art and science of the diagnosis, prevention, and treatment of disorders of the body by stimulation or support, or both, of the natural processes of the human body. A naturopath is responsible and accountable to the consumer for the quality of naturopathic care rendered.

1 The practice of naturopathic medicine includes manual
2 manipulation (mechanotherapy), the prescription, administration,
3 dispensing, and use, except for the treatment of malignancies, of
4 nutrition and food science, physical modalities, minor office
5 procedures, homeopathy, naturopathic medicines, legend and nonlegend
6 drugs and controlled substances contained in Schedules III through V
7 of the uniform controlled substances act, chapter 69.50 RCW, hygiene
8 and immunization, contraceptive devices, common diagnostic
9 procedures, and suggestion; however, nothing in this chapter shall
10 prohibit consultation and treatment of a patient in concert with a
11 practitioner licensed under chapter 18.57 or 18.71 RCW. No person
12 licensed under this chapter may employ the term "chiropractic" to
13 describe any services provided by a naturopath under this chapter.

14 **Sec. 6.** RCW 69.41.030 and 2019 c 55 s 9 are each amended to read
15 as follows:

16 (1) It shall be unlawful for any person to sell, deliver, or
17 possess any legend drug except upon the order or prescription of a
18 physician under chapter 18.71 RCW, an osteopathic physician and
19 surgeon under chapter 18.57 RCW, an optometrist licensed under
20 chapter 18.53 RCW who is certified by the optometry board under RCW
21 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
22 and surgeon under chapter 18.22 RCW, a naturopathic physician under
23 chapter 18.36A RCW, a veterinarian under chapter 18.92 RCW, a
24 commissioned medical or dental officer in the United States armed
25 forces or public health service in the discharge of his or her
26 official duties, a duly licensed physician or dentist employed by the
27 veterans administration in the discharge of his or her official
28 duties, a registered nurse or advanced registered nurse practitioner
29 under chapter 18.79 RCW when authorized by the nursing care quality
30 assurance commission, a pharmacist licensed under chapter 18.64 RCW
31 to the extent permitted by drug therapy guidelines or protocols
32 established under RCW 18.64.011 and authorized by the commission and
33 approved by a practitioner authorized to prescribe drugs, an
34 osteopathic physician assistant under chapter 18.57A RCW when
35 authorized by the board of osteopathic medicine and surgery, a
36 physician assistant under chapter 18.71A RCW when authorized by the
37 Washington medical commission, or any of the following professionals
38 in any province of Canada that shares a common border with the state
39 of Washington or in any state of the United States: A physician

1 licensed to practice medicine and surgery or a physician licensed to
2 practice osteopathic medicine and surgery, a physician licensed to
3 practice naturopathic medicine and authorized to prescribe legend
4 drugs, a dentist licensed to practice dentistry, a podiatric
5 physician and surgeon licensed to practice podiatric medicine and
6 surgery, a licensed advanced registered nurse practitioner, a
7 licensed physician assistant, a licensed osteopathic physician
8 assistant, or a veterinarian licensed to practice veterinary
9 medicine: PROVIDED, HOWEVER, That the above provisions shall not
10 apply to sale, delivery, or possession by drug wholesalers or drug
11 manufacturers, or their agents or employees, or to any practitioner
12 acting within the scope of his or her license, or to a common or
13 contract carrier or warehouse operator, or any employee thereof,
14 whose possession of any legend drug is in the usual course of
15 business or employment: PROVIDED FURTHER, That nothing in this
16 chapter or chapter 18.64 RCW shall prevent a family planning clinic
17 that is under contract with the health care authority from selling,
18 delivering, possessing, and dispensing commercially prepackaged oral
19 contraceptives prescribed by authorized, licensed health care
20 practitioners: PROVIDED FURTHER, That nothing in this chapter
21 prohibits possession or delivery of legend drugs by an authorized
22 collector or other person participating in the operation of a drug
23 take-back program authorized in chapter 69.48 RCW.

24 (2)(a) A violation of this section involving the sale, delivery,
25 or possession with intent to sell or deliver is a class B felony
26 punishable according to chapter 9A.20 RCW.

27 (b) A violation of this section involving possession is a
28 misdemeanor.

29 **Sec. 7.** RCW 69.41.030 and 2020 c 80 s 41 are each amended to
30 read as follows:

31 (1) It shall be unlawful for any person to sell, deliver, or
32 possess any legend drug except upon the order or prescription of a
33 physician under chapter 18.71 RCW, an osteopathic physician and
34 surgeon under chapter 18.57 RCW, an optometrist licensed under
35 chapter 18.53 RCW who is certified by the optometry board under RCW
36 18.53.010, a dentist under chapter 18.32 RCW, a podiatric physician
37 and surgeon under chapter 18.22 RCW, a naturopathic physician under
38 chapter 18.36A RCW, a veterinarian under chapter 18.92 RCW, a
39 commissioned medical or dental officer in the United States armed

1 forces or public health service in the discharge of his or her
2 official duties, a duly licensed physician or dentist employed by the
3 veterans administration in the discharge of his or her official
4 duties, a registered nurse or advanced registered nurse practitioner
5 under chapter 18.79 RCW when authorized by the nursing care quality
6 assurance commission, a pharmacist licensed under chapter 18.64 RCW
7 to the extent permitted by drug therapy guidelines or protocols
8 established under RCW 18.64.011 and authorized by the commission and
9 approved by a practitioner authorized to prescribe drugs, a physician
10 assistant under chapter 18.71A RCW when authorized by the Washington
11 medical commission, or any of the following professionals in any
12 province of Canada that shares a common border with the state of
13 Washington or in any state of the United States: A physician licensed
14 to practice medicine and surgery or a physician licensed to practice
15 osteopathic medicine and surgery, a physician licensed to practice
16 naturopathic medicine and authorized to prescribe legend drugs, a
17 dentist licensed to practice dentistry, a podiatric physician and
18 surgeon licensed to practice podiatric medicine and surgery, a
19 licensed advanced registered nurse practitioner, a licensed physician
20 assistant, or a veterinarian licensed to practice veterinary
21 medicine: PROVIDED, HOWEVER, That the above provisions shall not
22 apply to sale, delivery, or possession by drug wholesalers or drug
23 manufacturers, or their agents or employees, or to any practitioner
24 acting within the scope of his or her license, or to a common or
25 contract carrier or warehouse operator, or any employee thereof,
26 whose possession of any legend drug is in the usual course of
27 business or employment: PROVIDED FURTHER, That nothing in this
28 chapter or chapter 18.64 RCW shall prevent a family planning clinic
29 that is under contract with the health care authority from selling,
30 delivering, possessing, and dispensing commercially prepackaged oral
31 contraceptives prescribed by authorized, licensed health care
32 practitioners: PROVIDED FURTHER, That nothing in this chapter
33 prohibits possession or delivery of legend drugs by an authorized
34 collector or other person participating in the operation of a drug
35 take-back program authorized in chapter 69.48 RCW.

36 (2)(a) A violation of this section involving the sale, delivery,
37 or possession with intent to sell or deliver is a class B felony
38 punishable according to chapter 9A.20 RCW.

39 (b) A violation of this section involving possession is a
40 misdemeanor.

Sec. 8. RCW 69.50.101 and 2020 c 133 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The term does not include:

(i) a controlled substance;

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

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

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

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

14 (j) "Department" means the department of health.

15 (k) "Designated provider" has the meaning provided in RCW
16 69.51A.010.

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

22 (m) "Dispenser" means a practitioner who dispenses.

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

25 (o) "Distributor" means a person who distributes.

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

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

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

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

9 (t) "Immediate precursor" means a substance:

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

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

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

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

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

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

32 (x) "Manufacture" means the production, preparation, propagation,
33 compounding, conversion, or processing of a controlled substance,
34 either directly or indirectly or by extraction from substances of
35 natural origin, or independently by means of chemical synthesis, or
36 by a combination of extraction and chemical synthesis, and includes
37 any packaging or repackaging of the substance or labeling or
38 relabeling of its container. The term does not include the
39 preparation, compounding, packaging, repackaging, labeling, or
40 relabeling of a controlled substance:

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

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

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

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

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

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

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

(bb) "Marijuana producer" means a person licensed by the board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(cc) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

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

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

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

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

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

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

(3) Poppy straw and concentrate of poppy straw.

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

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

(6) Cocaine base.

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

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

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan

1 and its salts (dextromethorphan). The term includes the racemic and
2 levorotatory forms of dextromethorphan.

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

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

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

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

12 (mm) "Practitioner" means:

13 (1) A physician under chapter 18.71 RCW; a physician assistant
14 under chapter 18.71A RCW; an osteopathic physician and surgeon under
15 chapter 18.57 RCW; an osteopathic physician assistant under chapter
16 18.57A RCW who is licensed under RCW 18.57A.020 subject to any
17 limitations in RCW 18.57A.040; an optometrist licensed under chapter
18 18.53 RCW who is certified by the optometry board under RCW 18.53.010
19 subject to any limitations in RCW 18.53.010; a dentist under chapter
20 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW;
21 a veterinarian under chapter 18.92 RCW; a registered nurse, advanced
22 registered nurse practitioner, or licensed practical nurse under
23 chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW
24 who is licensed under RCW 18.36A.030 subject to any limitations in
25 RCW 18.36A.040 and section 2 of this act; a pharmacist under chapter
26 18.64 RCW or a scientific investigator under this chapter, licensed,
27 registered or otherwise permitted insofar as is consistent with those
28 licensing laws to distribute, dispense, conduct research with respect
29 to or administer a controlled substance in the course of their
30 professional practice or research in this state.

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

35 (3) A physician licensed to practice medicine and surgery, a
36 physician licensed to practice osteopathic medicine and surgery, a
37 dentist licensed to practice dentistry, a podiatric physician and
38 surgeon licensed to practice podiatric medicine and surgery, a
39 licensed physician assistant or a licensed osteopathic physician
40 assistant specifically approved to prescribe controlled substances by

1 his or her state's medical commission or equivalent and his or her
2 supervising physician, an advanced registered nurse practitioner
3 licensed to prescribe controlled substances, a naturopathic physician
4 licensed to prescribe controlled substances, or a veterinarian
5 licensed to practice veterinary medicine in any state of the United
6 States.

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

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

13 (pp) "Qualifying patient" has the meaning provided in RCW
14 69.51A.010.

15 (qq) "Recognition card" has the meaning provided in RCW
16 69.51A.010.

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

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

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

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

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

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

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

Sec. 9. RCW 69.50.101 and 2020 c 133 s 2 and 2020 c 80 s 43 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or

1 hallucinogenic effect on the central nervous system substantially
2 similar to the stimulant, depressant, or hallucinogenic effect on the
3 central nervous system of a controlled substance included in Schedule
4 I or II.

5 (2) The term does not include:

6 (i) a controlled substance;

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

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

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

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

20 (j) "Department" means the department of health.

21 (k) "Designated provider" has the meaning provided in RCW
22 69.51A.010.

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

28 (m) "Dispenser" means a practitioner who dispenses.

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

31 (o) "Distributor" means a person who distributes.

32 (p) "Drug" means (1) a controlled substance recognized as a drug
33 in the official United States pharmacopoeia/national formulary or the
34 official homeopathic pharmacopoeia of the United States, or any
35 supplement to them; (2) controlled substances intended for use in the
36 diagnosis, cure, mitigation, treatment, or prevention of disease in
37 individuals or animals; (3) controlled substances (other than food)
38 intended to affect the structure or any function of the body of
39 individuals or animals; and (4) controlled substances intended for
40 use as a component of any article specified in (1), (2), or (3) of

1 this subsection. The term does not include devices or their
2 components, parts, or accessories.

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

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

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

14 (t) "Immediate precursor" means a substance:

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

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

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

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

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

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

37 (x) "Manufacture" means the production, preparation, propagation,
38 compounding, conversion, or processing of a controlled substance,
39 either directly or indirectly or by extraction from substances of
40 natural origin, or independently by means of chemical synthesis, or

1 by a combination of extraction and chemical synthesis, and includes
2 any packaging or repackaging of the substance or labeling or
3 relabeling of its container. The term does not include the
4 preparation, compounding, packaging, repackaging, labeling, or
5 relabeling of a controlled substance:

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

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

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

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

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

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

30 (aa) "Marijuana processor" means a person licensed by the board
31 to process marijuana into marijuana concentrates, useable marijuana,
32 and marijuana-infused products, package and label marijuana
33 concentrates, useable marijuana, and marijuana-infused products for
34 sale in retail outlets, and sell marijuana concentrates, useable
35 marijuana, and marijuana-infused products at wholesale to marijuana
36 retailers.

37 (bb) "Marijuana producer" means a person licensed by the board to
38 produce and sell marijuana at wholesale to marijuana processors and
39 other marijuana producers.

1 (cc) "Marijuana products" means useable marijuana, marijuana
2 concentrates, and marijuana-infused products as defined in this
3 section.

4 (dd) "Marijuana researcher" means a person licensed by the board
5 to produce, process, and possess marijuana for the purposes of
6 conducting research on marijuana and marijuana-derived drug products.

7 (ee) "Marijuana retailer" means a person licensed by the board to
8 sell marijuana concentrates, useable marijuana, and marijuana-infused
9 products in a retail outlet.

10 (ff) "Marijuana-infused products" means products that contain
11 marijuana or marijuana extracts, are intended for human use, are
12 derived from marijuana as defined in subsection (y) of this section,
13 and have a THC concentration no greater than ten percent. The term
14 "marijuana-infused products" does not include either useable
15 marijuana or marijuana concentrates.

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

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

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

30 (3) Poppy straw and concentrate of poppy straw.

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

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

35 (6) Cocaine base.

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

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

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

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

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

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

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

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040 and section 2 of this act; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

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

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, a naturopathic physician licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

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

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

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

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

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

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

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

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

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

1 animal owned by the individual or by a member of the individual's
2 household.

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

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

11 NEW SECTION. **Sec. 10.** Sections 6 and 8 of this act expire July
12 1, 2022.

13 NEW SECTION. **Sec. 11.** Sections 7 and 9 of this act take effect
14 July 1, 2022.

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