
SENATE BILL 5633

State of Washington**68th Legislature****2023 Regular Session****By** Senators Conway and Van De Wege

1 AN ACT Relating to physician assistant collaborative practice;
2 amending RCW 18.71A.020, 18.71A.025, 18.71A.030, 18.71A.050,
3 18.71A.090, 18.71A.120, 18.71A.130, 18.71A.150, 10.77.175, 18.71.030,
4 7.68.030, 51.04.030, 51.28.100, 71.05.020, 71.05.215, 71.05.217,
5 71.05.585, 71.32.110, 71.32.140, 71.32.250, 71.34.020, 71.34.755, and
6 74.09.497; reenacting and amending RCW 18.71A.010, 69.50.101,
7 71.05.760, 71.34.750, and 71.34.750; adding new sections to chapter
8 18.71A RCW; creating a new section; providing effective dates;
9 providing expiration dates; and providing contingent expiration
10 dates.

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

12 NEW SECTION. **Sec. 1.** The legislature finds that the COVID-19
13 public health emergency pushed our health care system to the edge and
14 health care providers across Washington state were challenged to
15 continue providing high quality care with insufficient resources
16 including an insufficient supply of health care practitioners. To
17 address this challenge, from March of 2020 through October of 2022,
18 physician assistants were permitted under governor Inslee's
19 proclamation 20-32 to work without a delegation agreement signed by a
20 supervising physician. During the public health emergency, physician
21 assistants provided safe and efficient care, expanding access to

1 necessary services and procedures statewide. The legislature also
2 finds that prior to and following the public health emergency, there
3 was, and continues to be, a great need for additional providers in
4 primary care and specialty areas, especially in underserved and rural
5 communities. Therefore, the legislature intends to authorize
6 physician assistants to enter into collaborative practice with
7 physicians to provide team-based care and enhance access to health
8 care for the people of the state.

9 **Sec. 2.** RCW 18.71A.010 and 2020 c 80 s 2 are each reenacted and
10 amended to read as follows:

11 The definitions set forth in this section apply throughout this
12 chapter.

13 (1) "Collaboration" means how physician assistants shall interact
14 with, consult with, and/or refer to a physician or other appropriate
15 member or members of the health care team as indicated by the
16 patient's condition, the education, experience, and competencies of
17 the physician assistant, and the standard of care. The degree of
18 collaboration must be determined at the physician assistant's primary
19 location of practice. The determination may include decisions made by
20 a physician, or employer with whom the physician assistant has
21 entered into a collaboration agreement, or the group or hospital
22 service and the credentialing and privileging systems of the
23 physician assistant's primary location of practice.

24 (2) "Collaboration agreement" means a written agreement that
25 describes the manner in which the physician assistant collaborates
26 with at least one physician, that does not assign supervisory
27 responsibility to, or represent acceptance of legal responsibility
28 by, a physician for the care provided by the physician assistant, and
29 that is signed by the physician assistant and one or more physicians
30 or the physician assistant's employer.

31 (3) "Commission" means the Washington medical commission.

32 ((+2)) (4) "Department" means the department of health.

33 ((+3)) (5) "Employer" means the scope appropriate clinician,
34 such as a medical director, who is authorized to enter into the
35 collaboration agreement with a physician assistant on behalf of the
36 facility, group, clinic, or other organization that employs the
37 physician assistant.

38 (6) "Physician" means a physician licensed under chapter 18.57 or
39 18.71 RCW.

1 ~~((4))~~ (7) "Physician assistant" means a person who is licensed
2 by the commission to practice medicine ~~((according to a practice~~
3 ~~agreement))~~ in collaboration with one or more ~~((participating))~~
4 collaborating physicians ~~((, with at least one of the physicians~~
5 ~~working in a supervisory capacity,))~~ and who is academically and
6 clinically prepared to provide health care services and perform
7 diagnostic, therapeutic, preventative, and health maintenance
8 services.

9 ~~((5) "Practice agreement" means an agreement entered under RCW~~
10 ~~18.71A.120.~~

11 ~~(6))~~ (8) "Practice medicine" has the meaning defined in RCW
12 18.71.011 and also includes the practice of osteopathic medicine and
13 surgery as defined in RCW 18.57.001.

14 ~~((7))~~ (9) "Secretary" means the secretary of health or the
15 secretary's designee.

16 **Sec. 3.** RCW 18.71A.020 and 2020 c 80 s 3 are each amended to
17 read as follows:

18 (1) The commission shall adopt rules fixing the qualifications
19 and the educational and training requirements for licensure as a
20 physician assistant or for those enrolled in any physician assistant
21 training program. The requirements shall include completion of an
22 accredited physician assistant training program approved by the
23 commission and within one year successfully take and pass an
24 examination approved by the commission, if the examination tests
25 subjects substantially equivalent to the curriculum of an accredited
26 physician assistant training program. An interim permit may be
27 granted by the department of health for one year provided the
28 applicant meets all other requirements. Physician assistants licensed
29 by the board of medical examiners, or the commission as of July 1,
30 1999, shall continue to be licensed.

31 (2)(a) The commission shall adopt rules governing the extent to
32 which:

33 (i) Physician assistant students may practice medicine during
34 training; and

35 (ii) Physician assistants may practice after successful
36 completion of a physician assistant training course.

37 (b) Such rules shall provide:

1 (i) That the practice of a physician assistant shall be limited
2 to the performance of those services for which he or she is trained;
3 and

4 (ii) That each physician assistant shall practice medicine only
5 under the terms of one or more (~~(practice)~~) collaboration agreements,
6 each signed by (~~one or more supervising physicians licensed in this~~
7 ~~state)~~) the physician assistant and one or more physicians licensed
8 in this state or the physician assistant's employer. A (~~(practice)~~)
9 collaboration agreement may be signed electronically using a method
10 for electronic signatures approved by the commission. (~~(Supervision~~
11 ~~shall not be construed to necessarily require the personal presence~~
12 ~~of the supervising physician or physicians at the place where~~
13 ~~services are rendered.)~~)

14 (3) Applicants for licensure shall file an application with the
15 commission on a form prepared by the secretary with the approval of
16 the commission, detailing the education, training, and experience of
17 the physician assistant and such other information as the commission
18 may require. The application shall be accompanied by a fee determined
19 by the secretary as provided in RCW 43.70.250 and 43.70.280. A
20 surcharge of fifty dollars per year shall be charged on each license
21 renewal or issuance of a new license to be collected by the
22 department and deposited into the impaired physician account for
23 physician assistant participation in the (~~(impaired)~~) physician
24 health program. Each applicant shall furnish proof satisfactory to
25 the commission of the following:

26 (a) That the applicant has completed an accredited physician
27 assistant program approved by the commission and is eligible to take
28 the examination approved by the commission;

29 (b) That the applicant is of good moral character; and

30 (c) That the applicant is physically and mentally capable of
31 practicing medicine as a physician assistant with reasonable skill
32 and safety. The commission may require an applicant to submit to such
33 examination or examinations as it deems necessary to determine an
34 applicant's physical or mental capability, or both, to safely
35 practice as a physician assistant.

36 (4) (a) The commission may approve, deny, or take other
37 disciplinary action upon the application for license as provided in
38 the Uniform Disciplinary Act, chapter 18.130 RCW.

39 (b) The license shall be renewed as determined under RCW
40 43.70.250 and 43.70.280. The commission shall request licensees to

1 submit information about their current professional practice at the
2 time of license renewal and licensees must provide the information
3 requested. This information may include practice setting, medical
4 specialty, or other relevant data determined by the commission.

5 (5) All funds in the impaired physician account shall be paid to
6 the contract entity within sixty days of deposit.

7 **Sec. 4.** RCW 18.71A.025 and 2020 c 80 s 4 are each amended to
8 read as follows:

9 (1) The uniform disciplinary act, chapter 18.130 RCW, governs the
10 issuance and denial of licenses and the discipline of licensees under
11 this chapter.

12 (2) The commission shall consult with the board of osteopathic
13 medicine and surgery when investigating allegations of unprofessional
14 conduct against a licensee who (~~(has a supervising)~~) is collaborating
15 with a physician licensed under chapter 18.57 RCW.

16 **Sec. 5.** RCW 18.71A.030 and 2020 c 80 s 5 are each amended to
17 read as follows:

18 (1) A physician assistant may practice medicine in this state to
19 the extent permitted by the (~~(practice)~~) collaboration agreement. A
20 physician assistant shall be subject to discipline under chapter
21 18.130 RCW.

22 (2) Physician assistants may provide services that they are
23 competent to perform based on their education, training, and
24 experience and that are consistent with their (~~(practice)~~)
25 collaboration agreement. The (~~(supervising)~~) collaborating physician
26 or physicians, or the physician assistant's employer, and the
27 physician assistant shall determine which procedures may be performed
28 and the (~~(supervision)~~) degree of autonomy under which the procedure
29 is performed. Physician assistants may practice in any area of
30 medicine or surgery as long as the practice is not beyond the
31 (~~(supervising physician's own scope of expertise and clinical~~
32 ~~practice and the practice agreement)~~) scope of expertise and clinical
33 practice of the collaborating physician or physicians or the group of
34 physicians within the department or specialty areas in which the
35 physician assistant practices.

36 (3) A physician assistant delivering general anesthesia or
37 intrathecal anesthesia pursuant to a (~~(practice)~~) collaboration
38 agreement (~~(with a physician)~~) shall show evidence of adequate

1 education and training in the delivery of the type of anesthesia
2 being delivered on his or her (~~practice~~) collaboration agreement.

3 **Sec. 6.** RCW 18.71A.050 and 2020 c 80 s 7 are each amended to
4 read as follows:

5 No physician or employer who enters into a (~~practice~~)
6 collaboration agreement with a licensed physician assistant in
7 accordance with and within the terms of any permission granted by the
8 commission is considered as aiding and abetting an unlicensed person
9 to practice medicine. The (~~supervising physician and~~) physician
10 assistant shall (~~each~~) retain sole professional and personal
11 responsibility for any act which constitutes the practice of medicine
12 as defined in RCW 18.71.011 or the practice of osteopathic medicine
13 and surgery as defined in RCW 18.57.001 when performed by the
14 physician assistant.

15 **Sec. 7.** RCW 18.71A.090 and 2020 c 80 s 8 are each amended to
16 read as follows:

17 (1) A physician assistant may sign and attest to any
18 certificates, cards, forms, or other required documentation that the
19 (~~physician assistant's supervising~~) physician or physician group
20 with whom the physician assistant is collaborating may sign, provided
21 that it is within the physician assistant's scope of practice and is
22 consistent with the terms of the physician assistant's (~~practice~~)
23 collaboration agreement as required by this chapter.

24 (2) Notwithstanding any federal law, rule, or medical staff bylaw
25 provision to the contrary, a physician is not required to countersign
26 orders written in a patient's clinical record or an official form by
27 a physician assistant with whom the physician has a (~~practice~~)
28 collaboration agreement.

29 **Sec. 8.** RCW 18.71A.120 and 2020 c 80 s 6 are each amended to
30 read as follows:

31 (1) Prior to commencing practice, a physician assistant licensed
32 in Washington state must enter into a (~~practice~~) collaboration
33 agreement with a collaborating physician or group of collaborating
34 physicians, (~~at least one of whom must be working in a supervisory~~
35 ~~capacity.~~

36 ~~(a))~~ or an employer.

1 (2) (a) A collaboration agreement must be signed by a physician if
2 the physician assistant's employer is a physician assistant.

3 (b) Entering into a ((practice)) collaboration agreement is
4 voluntary for the physician assistant and the ((supervising))
5 collaborating physician or employer. A physician may not be compelled
6 to participate in a ((practice)) collaboration agreement as a
7 condition of employment.

8 ~~((b))~~ (c) Prior to entering into the ((practice)) collaboration
9 agreement, the collaborating physician((r)) or physicians, employer,
10 or their designee must verify the physician assistant's credentials.

11 ~~((e))~~ (d) The protections of RCW 43.70.075 apply to any
12 collaborating physician or employer who reports to the commission
13 acts of retaliation or reprisal for declining to sign a ((practice))
14 collaboration agreement.

15 ~~((d))~~ (e) The ((practice)) collaboration agreement must be
16 ~~((maintained by))~~ available at the physician assistant's ((employer
17 ~~or at his or her place of work and must be))~~ primary location of
18 practice and made available to the commission upon request.

19 ~~((e))~~ (f) The commission shall develop a model ((practice))
20 collaboration agreement.

21 ~~((f))~~ (g) The commission shall establish administrative
22 procedures, administrative requirements, and fees as provided in RCW
23 43.70.250 and 43.70.280.

24 ~~((2))~~ (3) A ((practice)) collaboration agreement must include
25 all of the following:

26 (a) The duties and responsibilities of the physician
27 assistant((r)) and the ((supervising)) collaborating physician((r
28 ~~alternate))~~ or physicians. The ((practice)) collaboration agreement
29 must describe ((supervision)) collaboration requirements for
30 specified procedures or areas of practice. The ((practice))
31 collaboration agreement may only include acts, tasks, or functions
32 that the physician assistant ((and supervising physician or alternate
33 ~~physicians are))~~ is qualified to perform by education, training, or
34 experience ((and that are)). The acts, tasks, or functions included
35 in the collaboration agreement must also be within the scope of
36 expertise and clinical practice of ((both the physician assistant and
37 ~~the supervising physician or alternate physicians))~~ either the
38 collaborating physician or physicians or alternate the group of
39 physicians within the department or specialty areas in which the

1 physician assistant is practicing, unless otherwise authorized by
2 law, rule, or the commission;

3 (b) A process between the physician assistant and ~~((supervising))~~
4 collaborating physician or ~~((alternate))~~ physicians for
5 communication, availability, and decision making when providing
6 medical treatment to a patient or in the event of an acute health
7 care crisis not previously covered by the ~~((practice))~~ collaboration
8 agreement, such as a flu pandemic or other unforeseen emergency.
9 Communications may occur in person, electronically, by telephone, or
10 by an alternate method;

11 (c) If there is only one physician party to the ~~((practice))~~
12 collaboration agreement, a protocol for designating ~~((an alternate))~~
13 another collaborating physician for consultation in situations in
14 which the physician is not available;

15 (d) The signature of the physician assistant and the signature or
16 signatures of the ~~((supervising))~~ collaborating physician ~~((—A~~
17 ~~practice agreement may be signed electronically using a method for~~
18 ~~electronic signatures approved by the commission; and~~

19 ~~(e))~~ or physicians, or employer;

20 (e) If the physician assistant has fewer than 4,000 hours of
21 postgraduate clinical experience, a plan for the minimum number of
22 hours per month during which the physician assistant will
23 collaborate, both in person and through technology, with a specified
24 physician; and

25 (f) A termination provision. A physician assistant or physician
26 may terminate the ~~((practice))~~ collaboration agreement as it applies
27 to a single ~~((supervising))~~ physician without terminating the
28 agreement with respect to the remaining participating physicians. If
29 the termination results in no ~~((supervising))~~ collaborating physician
30 being designated on the agreement, a new ~~((supervising))~~
31 collaborating physician must be designated for the agreement to be
32 valid.

33 (i) Except as provided in ~~((e))~~ (f)(ii) of this subsection, the
34 physician assistant or ~~((supervising))~~ collaborating physician must
35 provide written notice at least thirty days prior to the termination.

36 (ii) The physician assistant or ~~((supervising))~~ collaborating
37 physician may terminate the ~~((practice))~~ collaboration agreement
38 immediately due to good faith concerns regarding unprofessional
39 conduct or failure to practice medicine while exercising reasonable
40 skill and safety.

1 ~~((3))~~ (4) The physician assistant, or the physician,
2 physicians, or employer with whom the physician assistant has entered
3 into the collaboration agreement, is responsible for tracking the
4 hours described in subsection (3)(e) of this section.

5 (5) A ~~((practice))~~ collaboration agreement may be amended for any
6 reason ~~((, such as to add or remove supervising physicians or~~
7 ~~alternate physicians or to amend the duties and responsibilities of~~
8 ~~the physician assistant))~~.

9 ~~((4))~~ (6) Whenever a physician assistant is practicing in a
10 manner inconsistent with the ~~((practice))~~ collaboration agreement,
11 the commission may take disciplinary action under chapter 18.130 RCW.

12 ~~((5))~~ (7) Whenever a physician is subject to disciplinary
13 action under chapter 18.130 RCW related to the practice of a
14 physician assistant, the case must be referred to the appropriate
15 disciplining authority.

16 ~~((6))~~ (8) A physician assistant ~~((or)),~~ physician, or employer
17 may participate in more than one ~~((practice))~~ collaboration agreement
18 if ~~((he or she))~~ the physician or employer is reasonably able to
19 fulfill the duties and responsibilities in each agreement.

20 ~~((7) A physician may supervise no more than ten physician~~
21 ~~assistants. A physician may petition the commission for a waiver of~~
22 ~~this limit. The commission shall automatically grant a waiver to any~~
23 ~~physician who possesses, on July 1, 2021, a valid waiver to supervise~~
24 ~~more than ten physician assistants. A physician granted a waiver~~
25 ~~under this subsection may not supervise more physician assistants~~
26 ~~than the physician is able to adequately supervise.~~

27 ~~(8) A physician assistant must file with the commission in a form~~
28 ~~acceptable to the commission:~~

29 ~~(a) Each practice agreement into which the physician assistant~~
30 ~~enters under this section;~~

31 ~~(b) Any amendments to the practice agreement; and~~

32 ~~(c) Notice if the practice agreement is terminated.)~~

33 (9) Performance assessments and reviews of a physician assistant
34 may be completed by the physician assistant's employer in accordance
35 with a performance assessment and review process established by the
36 employer.

37 (10) Nothing in this section shall be construed as prohibiting a
38 physician assistant from owning his or her own practice or clinic.

1 **Sec. 9.** RCW 18.71A.130 and 2020 c 80 s 9 are each amended to
2 read as follows:

3 (1) The commission shall conduct an education and outreach
4 campaign to make license holders, health carriers, and the public
5 aware of the provisions of chapter 80, Laws of 2020 until January 1,
6 2025, and thereafter the provisions of this act.

7 (2) This section expires (~~August~~) January 1, ((2023)) 2026.

8 **Sec. 10.** RCW 18.71A.150 and 2020 c 80 s 11 are each amended to
9 read as follows:

10 The commission and the board of osteopathic medicine and surgery
11 shall adopt any rules necessary to implement (~~chapter 80, Laws of~~
12 ~~2020~~) requirements related to collaboration agreements entered into
13 under this chapter.

14 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.71A
15 RCW to read as follows:

16 A physician assistant practicing under a practice agreement that
17 was entered into before January 1, 2025, may continue to practice
18 under the practice agreement until the physician assistant enters
19 into a collaboration agreement, as defined in RCW 18.71A.010. A
20 physician assistant described in this section shall enter into a
21 collaboration agreement not later than the date on which the
22 physician assistant's license is due for renewal or January 1, 2025,
23 whichever is later.

24 NEW SECTION. **Sec. 12.** A new section is added to chapter 18.71A
25 RCW to read as follows:

26 This chapter authorizes third-party payers to reimburse employers
27 of physician assistants for covered services rendered by licensed
28 physician assistants. Payment for services within the physician
29 assistant's scope of practice must be made when ordered or performed
30 by a physician assistant if the same services would have been covered
31 if ordered or performed by a physician. Physician assistants and
32 their employers are authorized to bill for and receive direct payment
33 for the services delivered by physician assistants.

34 **Sec. 13.** RCW 10.77.175 and 2022 c 210 s 22 are each amended to
35 read as follows:

1 (1) Conditional release planning should start at admission and
2 proceed in coordination between the department and the person's
3 managed care organization, or behavioral health administrative
4 services organization if the person is not eligible for medical
5 assistance under chapter 74.09 RCW. If needed, the department shall
6 assist the person to enroll in medical assistance in suspense status
7 under RCW 74.09.670. The state hospital liaison for the managed care
8 organization or behavioral health administrative services
9 organization shall facilitate conditional release planning in
10 collaboration with the department.

11 (2) Less restrictive alternative treatment pursuant to a
12 conditional release order, at a minimum, includes the following
13 services:

14 (a) Assignment of a care coordinator;

15 (b) An intake evaluation with the provider of the conditional
16 treatment;

17 (c) A psychiatric evaluation or a substance use disorder
18 evaluation, or both;

19 (d) A schedule of regular contacts with the provider of the less
20 restrictive alternative treatment services for the duration of the
21 order;

22 (e) A transition plan addressing access to continued services at
23 the expiration of the order;

24 (f) An individual crisis plan;

25 (g) Consultation about the formation of a mental health advance
26 directive under chapter 71.32 RCW;

27 (h) Appointment of a transition team under RCW 10.77.150; and

28 (i) Notification to the care coordinator assigned in (a) of this
29 subsection and to the transition team as provided in RCW 10.77.150 if
30 reasonable efforts to engage the client fail to produce substantial
31 compliance with court-ordered treatment conditions.

32 (3) Less restrictive alternative treatment pursuant to a
33 conditional release order may additionally include requirements to
34 participate in the following services:

35 (a) Medication management;

36 (b) Psychotherapy;

37 (c) Nursing;

38 (d) Substance use disorder counseling;

39 (e) Residential treatment;

40 (f) Partial hospitalization;

1 (g) Intensive outpatient treatment;

2 (h) Support for housing, benefits, education, and employment; and

3 (i) Periodic court review.

4 (4) Nothing in this section prohibits items in subsection (2) of
5 this section from beginning before the conditional release of the
6 individual.

7 (5) If the person was provided with involuntary medication under
8 RCW 10.77.094 or pursuant to a judicial order during the involuntary
9 commitment period, the less restrictive alternative treatment
10 pursuant to the conditional release order may authorize the less
11 restrictive alternative treatment provider or its designee to
12 administer involuntary antipsychotic medication to the person if the
13 provider has attempted and failed to obtain the informed consent of
14 the person and there is a concurring medical opinion approving the
15 medication by a psychiatrist, physician assistant (~~working~~)
16 collaborating with a (~~supervising~~) psychiatrist, psychiatric
17 advanced registered nurse practitioner, or physician or physician
18 assistant in consultation with an independent mental health
19 professional with prescribing authority.

20 (6) Less restrictive alternative treatment pursuant to a
21 conditional release order must be administered by a provider that is
22 certified or licensed to provide or coordinate the full scope of
23 services required under the less restrictive alternative order and
24 that has agreed to assume this responsibility.

25 (7) The care coordinator assigned to a person ordered to less
26 restrictive alternative treatment pursuant to a conditional release
27 order must submit an individualized plan for the person's treatment
28 services to the court that entered the order. An initial plan must be
29 submitted as soon as possible following the intake evaluation and a
30 revised plan must be submitted upon any subsequent modification in
31 which a type of service is removed from or added to the treatment
32 plan.

33 (8) A care coordinator may disclose information and records
34 related to mental health treatment under RCW 70.02.230(2)(k) for
35 purposes of implementing less restrictive alternative treatment
36 pursuant to a conditional release order.

37 (9) For the purpose of this section, "care coordinator" means a
38 representative from the department of social and health services who
39 coordinates the activities of less restrictive alternative treatment
40 pursuant to a conditional release order. The care coordinator

1 coordinates activities with the person's transition team that are
2 necessary for enforcement and continuation of the conditional release
3 order and is responsible for coordinating service activities with
4 other agencies and establishing and maintaining a therapeutic
5 relationship with the individual on a continuing basis.

6 **Sec. 14.** RCW 18.71.030 and 2021 c 247 s 1 are each amended to
7 read as follows:

8 Nothing in this chapter shall be construed to apply to or
9 interfere in any way with the practice of religion or any kind of
10 treatment by prayer; nor shall anything in this chapter be construed
11 to prohibit:

12 (1) The furnishing of medical assistance in cases of emergency
13 requiring immediate attention;

14 (2) The domestic administration of family remedies;

15 (3) The administration of oral medication of any nature to
16 students by public school district employees or private elementary or
17 secondary school employees as provided for in chapter 28A.210 RCW;

18 (4) The practice of dentistry, osteopathic medicine and surgery,
19 nursing, chiropractic, podiatric medicine and surgery, optometry,
20 naturopathy, or any other healing art licensed under the methods or
21 means permitted by such license;

22 (5) The practice of medicine in this state by any commissioned
23 medical officer serving in the armed forces of the United States or
24 public health service or any medical officer on duty with the United
25 States veterans administration while such medical officer is engaged
26 in the performance of the duties prescribed for him or her by the
27 laws and regulations of the United States;

28 (6) The consultation through telemedicine or other means by a
29 practitioner, licensed by another state or territory in which he or
30 she resides, with a practitioner licensed in this state who has
31 responsibility for the diagnosis and treatment of the patient within
32 this state;

33 (7) The in-person practice of medicine by any practitioner
34 licensed by another state or territory in which he or she resides,
35 provided that such practitioner shall not open an office or appoint a
36 place of meeting patients or receiving calls within this state;

37 (8) The practice of medicine by a person who is a regular student
38 in a school of medicine approved and accredited by the commission if:

1 (a) The performance of such services is only pursuant to a
2 regular course of instruction or assignments from his or her
3 instructor; or

4 (b) Such services are performed only under the supervision and
5 control of a person licensed pursuant to this chapter; or

6 (c) (i) Such services are performed without compensation or
7 expectation of compensation as part of a volunteer activity;

8 (ii) The student is under the direct supervision and control of a
9 pharmacist licensed under chapter 18.64 RCW, an osteopathic physician
10 and surgeon licensed under chapter 18.57 RCW, or a registered nurse
11 or advanced registered nurse practitioner licensed under chapter
12 18.79 RCW;

13 (iii) The services the student performs are within the scope of
14 practice of: (A) A physician licensed under this chapter; and (B) the
15 person supervising the student;

16 (iv) The school in which the student is enrolled verifies the
17 student has demonstrated competency through his or her education and
18 training to perform the services; and

19 (v) The student provides proof of current malpractice insurance
20 to the volunteer activity organizer prior to performing any services;

21 (9) The practice of medicine by a person serving a period of
22 postgraduate medical training in a program of clinical medical
23 training sponsored by a college or university in this state or by a
24 hospital accredited in this state, however, the performance of such
25 services shall be only pursuant to his or her duties as a trainee;

26 (10) The practice of medicine by a person who is regularly
27 enrolled in a physician assistant program approved by the commission,
28 however, the performance of such services shall be only pursuant to a
29 regular course of instruction in said program and such services are
30 performed only under the supervision and control of a person licensed
31 pursuant to this chapter;

32 (11) The practice of medicine by a licensed physician assistant
33 which practice is performed (~~under the supervision and control of~~)
34 in collaboration with a physician licensed pursuant to this chapter;

35 (12) The practice of medicine, in any part of this state which
36 shares a common border with Canada and which is surrounded on three
37 sides by water, by a physician licensed to practice medicine and
38 surgery in Canada or any province or territory thereof;

39 (13) The administration of nondental anesthesia by a dentist who
40 has completed a residency in anesthesiology at a school of medicine

1 approved by the commission, however, a dentist allowed to administer
2 nondental anesthesia shall do so only under authorization of the
3 patient's attending surgeon, obstetrician, or psychiatrist, and the
4 commission has jurisdiction to discipline a dentist practicing under
5 this exemption and enjoin or suspend such dentist from the practice
6 of nondental anesthesia according to this chapter and chapter 18.130
7 RCW;

8 (14) Emergency lifesaving service rendered by a physician's
9 trained advanced emergency medical technician and paramedic, as
10 defined in RCW 18.71.200, if the emergency lifesaving service is
11 rendered under the responsible supervision and control of a licensed
12 physician;

13 (15) The provision of clean, intermittent bladder catheterization
14 for students by public school district employees or private school
15 employees as provided for in RCW 18.79.290 and 28A.210.280.

16 **Sec. 15.** RCW 7.68.030 and 2020 c 80 s 12 are each amended to
17 read as follows:

18 (1) It shall be the duty of the director to establish and
19 administer a program of benefits to innocent victims of criminal acts
20 within the terms and limitations of this chapter. The director may
21 apply for and, subject to appropriation, expend federal funds under
22 Public Law 98-473 and any other federal program providing financial
23 assistance to state crime victim compensation programs. The federal
24 funds shall be deposited in the state general fund and may be
25 expended only for purposes authorized by applicable federal law.

26 (2) The director shall:

27 (a) Establish and adopt rules governing the administration of
28 this chapter in accordance with chapter 34.05 RCW;

29 (b) Regulate the proof of accident and extent thereof, the proof
30 of death, and the proof of relationship and the extent of dependency;

31 (c) Supervise the medical, surgical, and hospital treatment to
32 the intent that it may be in all cases efficient and up to the
33 recognized standard of modern surgery;

34 (d) Issue proper receipts for moneys received and certificates
35 for benefits accrued or accruing;

36 (e) Designate a medical director who is licensed under chapter
37 18.57 or 18.71 RCW;

38 (f) Supervise the providing of prompt and efficient care and
39 treatment, including care provided by physician assistants governed

1 by the provisions of chapter 18.71A RCW, (~~acting under a supervising~~
2 ~~physician,~~) including chiropractic care, and including care provided
3 by licensed advanced registered nurse practitioners, to victims at
4 the least cost consistent with promptness and efficiency, without
5 discrimination or favoritism, and with as great uniformity as the
6 various and diverse surrounding circumstances and locations of
7 industries will permit and to that end shall, from time to time,
8 establish and adopt and supervise the administration of printed
9 forms, electronic communications, rules, regulations, and practices
10 for the furnishing of such care and treatment. The medical coverage
11 decisions of the department do not constitute a "rule" as used in RCW
12 34.05.010(16), nor are such decisions subject to the rule-making
13 provisions of chapter 34.05 RCW except that criteria for establishing
14 medical coverage decisions shall be adopted by rule. The department
15 may recommend to a victim particular health care services and
16 providers where specialized treatment is indicated or where cost-
17 effective payment levels or rates are obtained by the department, and
18 the department may enter into contracts for goods and services
19 including, but not limited to, durable medical equipment so long as
20 statewide access to quality service is maintained for injured
21 victims;

22 (g) In consultation with interested persons, establish and, in
23 his or her discretion, periodically change as may be necessary, and
24 make available a fee schedule of the maximum charges to be made by
25 any physician, surgeon, chiropractor, hospital, druggist, licensed
26 advanced registered nurse practitioner, and physician assistants as
27 defined in chapter 18.71A RCW, (~~acting under a supervising~~
28 ~~physician~~) or other agency or person rendering services to victims.
29 The department shall coordinate with other state purchasers of health
30 care services to establish as much consistency and uniformity in
31 billing and coding practices as possible, taking into account the
32 unique requirements and differences between programs. No service
33 covered under this title, including services provided to victims,
34 whether aliens or other victims, who are not residing in the United
35 States at the time of receiving the services, shall be charged or
36 paid at a rate or rates exceeding those specified in such fee
37 schedule, and no contract providing for greater fees shall be valid
38 as to the excess. The establishment of such a schedule, exclusive of
39 conversion factors, does not constitute "agency action" as used in
40 RCW 34.05.010(3), nor does such a fee schedule constitute a "rule" as

1 used in RCW 34.05.010(16). Payments for providers' services under the
2 fee schedule established pursuant to this subsection (2) may not be
3 less than payments provided for comparable services under the
4 workers' compensation program under Title 51 RCW, provided:

5 (i) If the department, using caseload estimates, projects a
6 deficit in funding for the program by July 15th for the following
7 fiscal year, the director shall notify the governor and the
8 appropriate committees of the legislature and request funding
9 sufficient to continue payments to not less than payments provided
10 for comparable services under the workers' compensation program. If
11 sufficient funding is not provided to continue payments to not less
12 than payments provided for comparable services under the workers'
13 compensation program, the director shall reduce the payments under
14 the fee schedule for the following fiscal year based on caseload
15 estimates and available funding, except payments may not be reduced
16 to less than seventy percent of payments for comparable services
17 under the workers' compensation program;

18 (ii) If an unforeseeable catastrophic event results in
19 insufficient funding to continue payments to not less than payments
20 provided for comparable services under the workers' compensation
21 program, the director shall reduce the payments under the fee
22 schedule to not less than seventy percent of payments provided for
23 comparable services under the workers' compensation program, provided
24 that the reduction may not be more than necessary to fund benefits
25 under the program; and

26 (iii) Once sufficient funding is provided or otherwise available,
27 the director shall increase the payments under the fee schedule to
28 not less than payments provided for comparable services under the
29 workers' compensation program;

30 (h) Make a record of the commencement of every disability and the
31 termination thereof and, when bills are rendered for the care and
32 treatment of injured victims, shall approve and pay those which
33 conform to the adopted rules, regulations, established fee schedules,
34 and practices of the director and may reject any bill or item thereof
35 incurred in violation of the principles laid down in this section or
36 the rules, regulations, or the established fee schedules and rules
37 and regulations adopted under it.

38 (3) The director and his or her authorized assistants:

39 (a) Have power to issue subpoenas to enforce the attendance and
40 testimony of witnesses and the production and examination of books,

1 papers, photographs, tapes, and records before the department in
2 connection with any claim made to the department or any billing
3 submitted to the department. The superior court has the power to
4 enforce any such subpoena by proper proceedings;

5 (b) (i) May apply for and obtain a superior court order approving
6 and authorizing a subpoena in advance of its issuance. The
7 application may be made in the county where the subpoenaed person
8 resides or is found, or the county where the subpoenaed records or
9 documents are located, or in Thurston county. The application must
10 (A) state that an order is sought pursuant to this subsection; (B)
11 adequately specify the records, documents, or testimony; and (C)
12 declare under oath that an investigation is being conducted for a
13 lawfully authorized purpose related to an investigation within the
14 department's authority and that the subpoenaed documents or testimony
15 are reasonably related to an investigation within the department's
16 authority.

17 (ii) Where the application under this subsection (3) (b) is made
18 to the satisfaction of the court, the court must issue an order
19 approving the subpoena. An order under this subsection constitutes
20 authority of law for the agency to subpoena the records or testimony.

21 (iii) The director and his or her authorized assistants may seek
22 approval and a court may issue an order under this subsection without
23 prior notice to any person, including the person to whom the subpoena
24 is directed and the person who is the subject of an investigation.

25 (4) In all hearings, actions, or proceedings before the
26 department, any physician or licensed advanced registered nurse
27 practitioner having theretofore examined or treated the claimant may
28 be required to testify fully regarding such examination or treatment,
29 and shall not be exempt from so testifying by reason of the relation
30 of the physician or licensed advanced registered nurse practitioner
31 to the patient.

32 **Sec. 16.** RCW 51.04.030 and 2020 c 80 s 38 are each amended to
33 read as follows:

34 (1) The director shall supervise the providing of prompt and
35 efficient care and treatment, including care provided by physician
36 assistants governed by the provisions of chapter 18.71A RCW, (~~acting~~
37 ~~under a supervising physician,~~) including chiropractic care, and
38 including care provided by licensed advanced registered nurse
39 practitioners, to workers injured during the course of their

1 employment at the least cost consistent with promptness and
2 efficiency, without discrimination or favoritism, and with as great
3 uniformity as the various and diverse surrounding circumstances and
4 locations of industries will permit and to that end shall, from time
5 to time, establish and adopt and supervise the administration of
6 printed forms, rules, regulations, and practices for the furnishing
7 of such care and treatment: PROVIDED, That the medical coverage
8 decisions of the department do not constitute a "rule" as used in RCW
9 34.05.010(16), nor are such decisions subject to the rule-making
10 provisions of chapter 34.05 RCW except that criteria for establishing
11 medical coverage decisions shall be adopted by rule after
12 consultation with the workers' compensation advisory committee
13 established in RCW 51.04.110: PROVIDED FURTHER, That the department
14 may recommend to an injured worker particular health care services
15 and providers where specialized treatment is indicated or where cost-
16 effective payment levels or rates are obtained by the department: AND
17 PROVIDED FURTHER, That the department may enter into contracts for
18 goods and services including, but not limited to, durable medical
19 equipment so long as statewide access to quality service is
20 maintained for injured workers.

21 (2) The director shall, in consultation with interested persons,
22 establish and, in his or her discretion, periodically change as may
23 be necessary, and make available a fee schedule of the maximum
24 charges to be made by any physician, surgeon, chiropractor, hospital,
25 druggist, licensed advanced registered nurse practitioner,
26 physicians' assistants as defined in chapter 18.71A RCW, (~~acting~~
27 ~~under a supervising physician~~) or other agency or person rendering
28 services to injured workers. The department shall coordinate with
29 other state purchasers of health care services to establish as much
30 consistency and uniformity in billing and coding practices as
31 possible, taking into account the unique requirements and differences
32 between programs. No service covered under this title, including
33 services provided to injured workers, whether aliens or other injured
34 workers, who are not residing in the United States at the time of
35 receiving the services, shall be charged or paid at a rate or rates
36 exceeding those specified in such fee schedule, and no contract
37 providing for greater fees shall be valid as to the excess. The
38 establishment of such a schedule, exclusive of conversion factors,
39 does not constitute "agency action" as used in RCW 34.05.010(3), nor
40 does such a fee schedule and its associated billing or payment

1 instructions and policies constitute a "rule" as used in RCW
2 34.05.010(16).

3 (3) The director or self-insurer, as the case may be, shall make
4 a record of the commencement of every disability and the termination
5 thereof and, when bills are rendered for the care and treatment of
6 injured workers, shall approve and pay those which conform to the
7 adopted rules, regulations, established fee schedules, and practices
8 of the director and may reject any bill or item thereof incurred in
9 violation of the principles laid down in this section or the rules,
10 regulations, or the established fee schedules and rules and
11 regulations adopted under it.

12 **Sec. 17.** RCW 51.28.100 and 2020 c 80 s 39 are each amended to
13 read as follows:

14 The department shall accept the signature of a physician
15 assistant on any certificate, card, form, or other documentation
16 required by the department that the physician (~~assistant's~~
17 ~~supervising physician or physicians~~) or physicians with whom the
18 physician assistant is collaborating may sign, provided that it is
19 within the physician assistant's scope of practice, and is consistent
20 with the terms of the physician assistant's (~~practice~~)
21 collaboration agreement as required by chapter 18.71A RCW. Consistent
22 with the terms of this section, the authority of a physician
23 assistant to sign such certificates, cards, forms, or other
24 documentation includes, but is not limited to, the execution of the
25 certificate required in RCW 51.28.020. A physician assistant may not
26 rate a worker's permanent partial disability under RCW 51.32.055.

27 **Sec. 18.** RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and
28 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (l) "CBD concentration" has the meaning provided in RCW
8 69.51A.010.

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

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

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

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

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

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

29 (2) The term does not include:

30 (i) a controlled substance;

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

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

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

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

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

5 (s) "Designated provider" has the meaning provided in RCW
6 69.51A.010.

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

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

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

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

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

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

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

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

38 (bb) "Immediate precursor" means a substance:

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

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

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

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

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

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

23 (ff) "Manufacture" means the production, preparation,
24 propagation, compounding, conversion, or processing of a controlled
25 substance, either directly or indirectly or by extraction from
26 substances of natural origin, or independently by means of chemical
27 synthesis, or by a combination of extraction and chemical synthesis,
28 and includes any packaging or repackaging of the substance or
29 labeling or relabeling of its container. The term does not include
30 the preparation, compounding, packaging, repackaging, labeling, or
31 relabeling of a controlled substance:

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

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

39 (gg) "Narcotic drug" means any of the following, whether produced
40 directly or indirectly by extraction from substances of vegetable

1 origin, or independently by means of chemical synthesis, or by a
2 combination of extraction and chemical synthesis:

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

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

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

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

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

18 (6) Cocaine base.

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

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

23 (hh) "Opiate" means any substance having an addiction-forming or
24 addiction-sustaining liability similar to morphine or being capable
25 of conversion into a drug having addiction-forming or addiction-
26 sustaining liability. The term includes opium, substances derived
27 from opium (opium derivatives), and synthetic opiates. The term does
28 not include, unless specifically designated as controlled under RCW
29 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan
30 and its salts (dextromethorphan). The term includes the racemic and
31 levorotatory forms of dextromethorphan.

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

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

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

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

1 (mm) "Practitioner" means:

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

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

22 (3) A physician licensed to practice medicine and surgery, a
23 physician licensed to practice osteopathic medicine and surgery, a
24 dentist licensed to practice dentistry, a podiatric physician and
25 surgeon licensed to practice podiatric medicine and surgery, a
26 licensed physician assistant or a licensed osteopathic physician
27 assistant specifically approved to prescribe controlled substances by
28 his or her state's medical commission or equivalent (~~and his or her~~
29 ~~supervising physician~~), an advanced registered nurse practitioner
30 licensed to prescribe controlled substances, or a veterinarian
31 licensed to practice veterinary medicine in any state of the United
32 States.

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

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

39 (pp) "Qualifying patient" has the meaning provided in RCW
40 69.51A.010.

1 (qq) "Recognition card" has the meaning provided in RCW
2 69.51A.010.

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

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

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

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

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

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

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

31 **Sec. 19.** RCW 71.05.020 and 2022 c 210 s 1 are each amended to
32 read as follows:

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

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

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

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

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

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

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

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

23 (8) "Behavioral health service provider" means a public or
24 private agency that provides mental health, substance use disorder,
25 or co-occurring disorder services to persons with behavioral health
26 disorders as defined under this section and receives funding from
27 public sources. This includes, but is not limited to: Hospitals
28 licensed under chapter 70.41 RCW; evaluation and treatment facilities
29 as defined in this section; community mental health service delivery
30 systems or community behavioral health programs as defined in RCW
31 71.24.025; licensed or certified behavioral health agencies under RCW
32 71.24.037; facilities conducting competency evaluations and
33 restoration under chapter 10.77 RCW; approved substance use disorder
34 treatment programs as defined in this section; secure withdrawal
35 management and stabilization facilities as defined in this section;
36 and correctional facilities operated by state and local governments;

37 (9) "Co-occurring disorder specialist" means an individual
38 possessing an enhancement granted by the department of health under
39 chapter 18.205 RCW that certifies the individual to provide substance

1 use disorder counseling subject to the practice limitations under RCW
2 18.205.105;

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

6 (11) "Community behavioral health agency" has the same meaning as
7 "licensed or certified behavioral health agency" defined in RCW
8 71.24.025;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (36) "Likelihood of serious harm" means:

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

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

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

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

29 (39) "Mental health professional" means a psychiatrist,
30 psychologist, physician assistant (~~(working)~~) collaborating with a
31 (~~(supervising)~~) psychiatrist, psychiatric advanced registered nurse
32 practitioner, psychiatric nurse, or social worker, and such other
33 mental health professionals as may be defined by rules adopted by the
34 secretary pursuant to the provisions of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

8 (a) Provide the following services:

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

11 (ii) Clinical stabilization services;

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

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

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

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

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

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

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

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

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

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

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

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

36 **Sec. 20.** RCW 71.05.215 and 2020 c 302 s 30 are each amended to
37 read as follows:

38 (1) A person found to be gravely disabled or to present a
39 likelihood of serious harm as a result of a behavioral health

1 disorder has a right to refuse antipsychotic medication unless it is
2 determined that the failure to medicate may result in a likelihood of
3 serious harm or substantial deterioration or substantially prolong
4 the length of involuntary commitment and there is no less intrusive
5 course of treatment than medication in the best interest of that
6 person.

7 (2) The authority shall adopt rules to carry out the purposes of
8 this chapter. These rules shall include:

9 (a) An attempt to obtain the informed consent of the person prior
10 to administration of antipsychotic medication.

11 (b) For short-term treatment up to thirty days, the right to
12 refuse antipsychotic medications unless there is an additional
13 concurring medical opinion approving medication by a psychiatrist,
14 physician assistant (~~(working)~~) collaborating with a (~~(supervising)~~)
15 psychiatrist, psychiatric advanced registered nurse practitioner, or
16 physician or physician assistant in consultation with a mental health
17 professional with prescriptive authority.

18 (c) For continued treatment beyond thirty days through the
19 hearing on any petition filed under RCW 71.05.217, the right to
20 periodic review of the decision to medicate by the medical director
21 or designee.

22 (d) Administration of antipsychotic medication in an emergency
23 and review of this decision within twenty-four hours. An emergency
24 exists if the person presents an imminent likelihood of serious harm,
25 and medically acceptable alternatives to administration of
26 antipsychotic medications are not available or are unlikely to be
27 successful; and in the opinion of the physician, physician assistant,
28 or psychiatric advanced registered nurse practitioner, the person's
29 condition constitutes an emergency requiring the treatment be
30 instituted prior to obtaining a second medical opinion.

31 (e) Documentation in the medical record of the attempt by the
32 physician, physician assistant, or psychiatric advanced registered
33 nurse practitioner to obtain informed consent and the reasons why
34 antipsychotic medication is being administered over the person's
35 objection or lack of consent.

36 **Sec. 21.** RCW 71.05.217 and 2020 c 302 s 32 are each amended to
37 read as follows:

38 (1) Insofar as danger to the individual or others is not created,
39 each person involuntarily detained, treated in a less restrictive

1 alternative course of treatment, or committed for treatment and
2 evaluation pursuant to this chapter shall have, in addition to other
3 rights not specifically withheld by law, the following rights, a list
4 of which shall be prominently posted in all facilities, institutions,
5 and hospitals providing such services:

6 (a) To wear his or her own clothes and to keep and use his or her
7 own personal possessions, except when deprivation of same is
8 essential to protect the safety of the resident or other persons;

9 (b) To keep and be allowed to spend a reasonable sum of his or
10 her own money for canteen expenses and small purchases;

11 (c) To have access to individual storage space for his or her
12 private use;

13 (d) To have visitors at reasonable times;

14 (e) To have reasonable access to a telephone, both to make and
15 receive confidential calls;

16 (f) To have ready access to letter writing materials, including
17 stamps, and to send and receive uncensored correspondence through the
18 mails;

19 (g) To have the right to individualized care and adequate
20 treatment;

21 (h) To discuss treatment plans and decisions with professional
22 persons;

23 (i) To not be denied access to treatment by spiritual means
24 through prayer in accordance with the tenets and practices of a
25 church or religious denomination in addition to the treatment
26 otherwise proposed;

27 (j) Not to consent to the administration of antipsychotic
28 medications beyond the hearing conducted pursuant to RCW 71.05.320(4)
29 or the performance of electroconvulsant therapy or surgery, except
30 emergency lifesaving surgery, unless ordered by a court of competent
31 jurisdiction pursuant to the following standards and procedures:

32 (i) The administration of antipsychotic medication or
33 electroconvulsant therapy shall not be ordered unless the petitioning
34 party proves by clear, cogent, and convincing evidence that there
35 exists a compelling state interest that justifies overriding the
36 patient's lack of consent to the administration of antipsychotic
37 medications or electroconvulsant therapy, that the proposed treatment
38 is necessary and effective, and that medically acceptable alternative
39 forms of treatment are not available, have not been successful, or
40 are not likely to be effective.

1 (ii) The court shall make specific findings of fact concerning:
2 (A) The existence of one or more compelling state interests; (B) the
3 necessity and effectiveness of the treatment; and (C) the person's
4 desires regarding the proposed treatment. If the patient is unable to
5 make a rational and informed decision about consenting to or refusing
6 the proposed treatment, the court shall make a substituted judgment
7 for the patient as if he or she were competent to make such a
8 determination.

9 (iii) The person shall be present at any hearing on a request to
10 administer antipsychotic medication or electroconvulsant therapy
11 filed pursuant to this subsection. The person has the right: (A) To
12 be represented by an attorney; (B) to present evidence; (C) to cross-
13 examine witnesses; (D) to have the rules of evidence enforced; (E) to
14 remain silent; (F) to view and copy all petitions and reports in the
15 court file; and (G) to be given reasonable notice and an opportunity
16 to prepare for the hearing. The court may appoint a psychiatrist,
17 physician assistant (~~(working)~~) collaborating with a (~~(supervising)~~)
18 psychiatrist, psychiatric advanced registered nurse practitioner,
19 psychologist within their scope of practice, physician assistant, or
20 physician to examine and testify on behalf of such person. The court
21 shall appoint a psychiatrist, physician assistant (~~(working)~~)
22 collaborating with a (~~(supervising)~~) psychiatrist, psychiatric
23 advanced registered nurse practitioner, psychologist within their
24 scope of practice, physician assistant, or physician designated by
25 such person or the person's counsel to testify on behalf of the
26 person in cases where an order for electroconvulsant therapy is
27 sought.

28 (iv) An order for the administration of antipsychotic medications
29 entered following a hearing conducted pursuant to this section shall
30 be effective for the period of the current involuntary treatment
31 order, and any interim period during which the person is awaiting
32 trial or hearing on a new petition for involuntary treatment or
33 involuntary medication.

34 (v) Any person detained pursuant to RCW 71.05.320(4), who
35 subsequently refuses antipsychotic medication, shall be entitled to
36 the procedures set forth in this subsection.

37 (vi) Antipsychotic medication may be administered to a
38 nonconsenting person detained or committed pursuant to this chapter
39 without a court order pursuant to RCW 71.05.215(2) or under the
40 following circumstances:

1 (A) A person presents an imminent likelihood of serious harm;

2 (B) Medically acceptable alternatives to administration of
3 antipsychotic medications are not available, have not been
4 successful, or are not likely to be effective; and

5 (C) In the opinion of the physician, physician assistant, or
6 psychiatric advanced registered nurse practitioner with
7 responsibility for treatment of the person, or his or her designee,
8 the person's condition constitutes an emergency requiring the
9 treatment be instituted before a judicial hearing as authorized
10 pursuant to this section can be held.

11 If antipsychotic medications are administered over a person's
12 lack of consent pursuant to this subsection, a petition for an order
13 authorizing the administration of antipsychotic medications shall be
14 filed on the next judicial day. The hearing shall be held within two
15 judicial days. If deemed necessary by the physician, physician
16 assistant, or psychiatric advanced registered nurse practitioner with
17 responsibility for the treatment of the person, administration of
18 antipsychotic medications may continue until the hearing is held;

19 (k) To dispose of property and sign contracts unless such person
20 has been adjudicated an incompetent in a court proceeding directed to
21 that particular issue;

22 (l) Not to have psychosurgery performed on him or her under any
23 circumstances.

24 (2) Every person involuntarily detained or committed under the
25 provisions of this chapter is entitled to all the rights set forth in
26 this chapter and retains all rights not denied him or her under this
27 chapter except as limited by chapter 9.41 RCW.

28 (3) No person may be presumed incompetent as a consequence of
29 receiving evaluation or treatment for a behavioral health disorder.
30 Competency may not be determined or withdrawn except under the
31 provisions of chapter 10.77 (~~or 11.88~~) RCW.

32 (4) Subject to RCW 71.05.745 and related regulations, persons
33 receiving evaluation or treatment under this chapter must be given a
34 reasonable choice of an available physician, physician assistant,
35 psychiatric advanced registered nurse practitioner, or other
36 professional person qualified to provide such services.

37 (5) Whenever any person is detained under this chapter, the
38 person must be advised that unless the person is released or
39 voluntarily admits himself or herself for treatment within one
40 hundred twenty hours of the initial detention, a judicial hearing

1 must be held in a superior court within one hundred twenty hours to
2 determine whether there is probable cause to detain the person for up
3 to an additional fourteen days based on an allegation that because of
4 a behavioral health disorder the person presents a likelihood of
5 serious harm or is gravely disabled, and that at the probable cause
6 hearing the person has the following rights:

7 (a) To communicate immediately with an attorney; to have an
8 attorney appointed if the person is indigent; and to be told the name
9 and address of the attorney that has been designated;

10 (b) To remain silent, and to know that any statement the person
11 makes may be used against him or her;

12 (c) To present evidence on the person's behalf;

13 (d) To cross-examine witnesses who testify against him or her;

14 (e) To be proceeded against by the rules of evidence;

15 (f) To have the court appoint a reasonably available independent
16 professional person to examine the person and testify in the hearing,
17 at public expense unless the person is able to bear the cost;

18 (g) To view and copy all petitions and reports in the court file;
19 and

20 (h) To refuse psychiatric medications, including antipsychotic
21 medication beginning twenty-four hours prior to the probable cause
22 hearing.

23 (6) The judicial hearing described in subsection (5) of this
24 section must be held according to the provisions of subsection (5) of
25 this section and rules promulgated by the supreme court.

26 (7)(a) Privileges between patients and physicians, physician
27 assistants, psychologists, or psychiatric advanced registered nurse
28 practitioners are deemed waived in proceedings under this chapter
29 relating to the administration of antipsychotic medications. As to
30 other proceedings under this chapter, the privileges are waived when
31 a court of competent jurisdiction in its discretion determines that
32 such waiver is necessary to protect either the detained person or the
33 public.

34 (b) The waiver of a privilege under this section is limited to
35 records or testimony relevant to evaluation of the detained person
36 for purposes of a proceeding under this chapter. Upon motion by the
37 detained person or on its own motion, the court shall examine a
38 record or testimony sought by a petitioner to determine whether it is
39 within the scope of the waiver.

1 (c) The record maker may not be required to testify in order to
2 introduce medical or psychological records of the detained person so
3 long as the requirements of RCW 5.45.020 are met except that portions
4 of the record which contain opinions as to the detained person's
5 mental state must be deleted from such records unless the person
6 making such conclusions is available for cross-examination.

7 (8) Nothing contained in this chapter prohibits the patient from
8 petitioning by writ of habeas corpus for release.

9 (9) Nothing in this section permits any person to knowingly
10 violate a no-contact order or a condition of an active judgment and
11 sentence or an active condition of supervision by the department of
12 corrections.

13 (10) The rights set forth under this section apply equally to
14 ninety-day or one hundred eighty-day hearings under RCW 71.05.310.

15 **Sec. 22.** RCW 71.05.585 and 2022 c 210 s 20 are each amended to
16 read as follows:

17 (1) Less restrictive alternative treatment, at a minimum,
18 includes the following services:

19 (a) Assignment of a care coordinator;

20 (b) An intake evaluation with the provider of the less
21 restrictive alternative treatment;

22 (c) A psychiatric evaluation, a substance use disorder
23 evaluation, or both;

24 (d) A schedule of regular contacts with the provider of the
25 treatment services for the duration of the order;

26 (e) A transition plan addressing access to continued services at
27 the expiration of the order;

28 (f) An individual crisis plan;

29 (g) Consultation about the formation of a mental health advance
30 directive under chapter 71.32 RCW; and

31 (h) Notification to the care coordinator assigned in (a) of this
32 subsection if reasonable efforts to engage the client fail to produce
33 substantial compliance with court-ordered treatment conditions.

34 (2) Less restrictive alternative treatment may additionally
35 include requirements to participate in the following services:

36 (a) Medication management;

37 (b) Psychotherapy;

38 (c) Nursing;

39 (d) Substance use disorder counseling;

- 1 (e) Residential treatment;
- 2 (f) Partial hospitalization;
- 3 (g) Intensive outpatient treatment;
- 4 (h) Support for housing, benefits, education, and employment; and
- 5 (i) Periodic court review.

6 (3) If the person was provided with involuntary medication under
7 RCW 71.05.215 or pursuant to a judicial order during the involuntary
8 commitment period, the less restrictive alternative treatment order
9 may authorize the less restrictive alternative treatment provider or
10 its designee to administer involuntary antipsychotic medication to
11 the person if the provider has attempted and failed to obtain the
12 informed consent of the person and there is a concurring medical
13 opinion approving the medication by a psychiatrist, physician
14 assistant (~~(working)~~) collaborating with a (~~(supervising)~~)
15 psychiatrist, psychiatric advanced registered nurse practitioner, or
16 physician or physician assistant in consultation with an independent
17 mental health professional with prescribing authority.

18 (4) Less restrictive alternative treatment must be administered
19 by a provider that is certified or licensed to provide or coordinate
20 the full scope of services required under the less restrictive
21 alternative order and that has agreed to assume this responsibility.

22 (5) The care coordinator assigned to a person ordered to less
23 restrictive alternative treatment must submit an individualized plan
24 for the person's treatment services to the court that entered the
25 order. An initial plan must be submitted as soon as possible
26 following the intake evaluation and a revised plan must be submitted
27 upon any subsequent modification in which a type of service is
28 removed from or added to the treatment plan.

29 (6) A care coordinator may disclose information and records
30 related to mental health services pursuant to RCW 70.02.230(2)(k) for
31 purposes of implementing less restrictive alternative treatment.

32 (7) For the purpose of this section, "care coordinator" means a
33 clinical practitioner who coordinates the activities of less
34 restrictive alternative treatment. The care coordinator coordinates
35 activities with the designated crisis responders that are necessary
36 for enforcement and continuation of less restrictive alternative
37 orders and is responsible for coordinating service activities with
38 other agencies and establishing and maintaining a therapeutic
39 relationship with the individual on a continuing basis.

1 **Sec. 23.** RCW 71.05.760 and 2019 c 446 s 16 and 2019 c 325 s 3015
2 are each reenacted and amended to read as follows:

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

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

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

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

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

20 (D) Person who meets the waiver criteria of RCW 71.24.260, which
21 waiver was granted before 1986;

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

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

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

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

37 (b) If, at any time during the implementation of secure
38 withdrawal management and stabilization facility capacity, federal
39 funding becomes unavailable for federal match for services provided
40 in secure withdrawal management and stabilization facilities, then

1 the authority must cease any expansion of secure withdrawal
2 management and stabilization facilities until further direction is
3 provided by the legislature.

4 **Sec. 24.** RCW 71.32.110 and 2021 c 287 s 11 are each amended to
5 read as follows:

6 (1) For the purposes of this chapter, a principal, agent,
7 professional person, or health care provider may seek a determination
8 whether the principal is incapacitated or has regained capacity.

9 (2) (a) For the purposes of this chapter, no adult may be declared
10 an incapacitated person except by:

11 (i) A court, if the request is made by the principal or the
12 principal's agent;

13 (ii) One mental health professional or substance use disorder
14 professional and one health care provider; or

15 (iii) Two health care providers.

16 (b) One of the persons making the determination under (a) (ii) or
17 (iii) of this subsection must be a psychiatrist, physician assistant
18 (~~(working)~~) collaborating with a (~~(supervising)~~) psychiatrist,
19 psychologist, or a psychiatric advanced registered nurse
20 practitioner.

21 (3) When a professional person or health care provider requests a
22 capacity determination, he or she shall promptly inform the principal
23 that:

24 (a) A request for capacity determination has been made; and

25 (b) The principal may request that the determination be made by a
26 court.

27 (4) At least one mental health professional, substance use
28 disorder professional, or health care provider must personally
29 examine the principal prior to making a capacity determination.

30 (5) (a) When a court makes a determination whether a principal has
31 capacity, the court shall, at a minimum, be informed by the testimony
32 of one mental health professional or substance use disorder
33 professional familiar with the principal and shall, except for good
34 cause, give the principal an opportunity to appear in court prior to
35 the court making its determination.

36 (b) To the extent that local court rules permit, any party or
37 witness may testify telephonically.

38 (6) When a court has made a determination regarding a principal's
39 capacity and there is a subsequent change in the principal's

1 condition, subsequent determinations whether the principal is
2 incapacitated may be made in accordance with any of the provisions of
3 subsection (2) of this section.

4 **Sec. 25.** RCW 71.32.140 and 2021 c 287 s 13 are each amended to
5 read as follows:

6 (1) A principal who:

7 (a) Chose not to be able to revoke his or her directive during
8 any period of incapacity;

9 (b) Consented to voluntary admission to inpatient behavioral
10 health treatment, or authorized an agent to consent on the
11 principal's behalf; and

12 (c) At the time of admission to inpatient treatment, refuses to
13 be admitted, may only be admitted into inpatient behavioral health
14 treatment under subsection (2) of this section.

15 (2) A principal may only be admitted to inpatient behavioral
16 health treatment under his or her directive if, prior to admission, a
17 member of the treating facility's professional staff who is a
18 physician, physician assistant, or psychiatric advanced registered
19 nurse practitioner:

20 (a) Evaluates the principal's mental condition, including a
21 review of reasonably available psychiatric and psychological history,
22 diagnosis, and treatment needs, and determines, in conjunction with
23 another health care provider, mental health professional, or
24 substance use disorder professional, that the principal is
25 incapacitated;

26 (b) Obtains the informed consent of the agent, if any, designated
27 in the directive;

28 (c) Makes a written determination that the principal needs an
29 inpatient evaluation or is in need of inpatient treatment and that
30 the evaluation or treatment cannot be accomplished in a less
31 restrictive setting; and

32 (d) Documents in the principal's medical record a summary of the
33 physician's, physician assistant's, or psychiatric advanced
34 registered nurse practitioner's findings and recommendations for
35 treatment or evaluation.

36 (3) In the event the admitting physician is not a psychiatrist,
37 the admitting physician assistant is not ~~((supervised by))~~
38 collaborating with a psychiatrist, or the advanced registered nurse
39 practitioner is not a psychiatric advanced registered nurse

1 practitioner, the principal shall receive a complete behavioral
2 health assessment by a mental health professional or substance use
3 disorder professional within 24 hours of admission to determine the
4 continued need for inpatient evaluation or treatment.

5 (4) (a) If it is determined that the principal has capacity, then
6 the principal may only be admitted to, or remain in, inpatient
7 treatment if he or she consents at the time, is admitted for family-
8 initiated treatment under chapter 71.34 RCW, or is detained under the
9 involuntary treatment provisions of chapter 71.05 or 71.34 RCW.

10 (b) If a principal who is determined by two health care providers
11 or one mental health professional or substance use disorder
12 professional and one health care provider to be incapacitated
13 continues to refuse inpatient treatment, the principal may
14 immediately seek injunctive relief for release from the facility.

15 (5) If, at the end of the period of time that the principal or
16 the principal's agent, if any, has consented to voluntary inpatient
17 treatment, but no more than 14 days after admission, the principal
18 has not regained capacity or has regained capacity but refuses to
19 consent to remain for additional treatment, the principal must be
20 released during reasonable daylight hours, unless detained under
21 chapter 71.05 or 71.34 RCW.

22 (6) (a) Except as provided in (b) of this subsection, any
23 principal who is voluntarily admitted to inpatient behavioral health
24 treatment under this chapter shall have all the rights provided to
25 individuals who are voluntarily admitted to inpatient treatment under
26 chapter 71.05, 71.34, or 72.23 RCW.

27 (b) Notwithstanding RCW 71.05.050 regarding consent to inpatient
28 treatment for a specified length of time, the choices an
29 incapacitated principal expressed in his or her directive shall
30 control, provided, however, that a principal who takes action
31 demonstrating a desire to be discharged, in addition to making
32 statements requesting to be discharged, shall be discharged, and no
33 principal shall be restrained in any way in order to prevent his or
34 her discharge. Nothing in this subsection shall be construed to
35 prevent detention and evaluation for civil commitment under chapter
36 71.05 RCW.

37 (7) Consent to inpatient admission in a directive is effective
38 only while the professional person, health care provider, and health
39 care facility are in substantial compliance with the material
40 provisions of the directive related to inpatient treatment.

1 **Sec. 26.** RCW 71.32.250 and 2021 c 287 s 18 are each amended to
2 read as follows:

3 (1) If a principal who is a resident of a long-term care facility
4 is admitted to inpatient behavioral health treatment pursuant to his
5 or her directive, the principal shall be allowed to be readmitted to
6 the same long-term care facility as if his or her inpatient admission
7 had been for a physical condition on the same basis that the
8 principal would be readmitted under state or federal statute or rule
9 when:

10 (a) The treating facility's professional staff determine that
11 inpatient behavioral health treatment is no longer medically
12 necessary for the resident. The determination shall be made in
13 writing by a psychiatrist, physician assistant (~~working~~)
14 collaborating with a (~~supervising~~) psychiatrist, or a psychiatric
15 advanced registered nurse practitioner, or (i) one physician and a
16 mental health professional or substance use disorder professional;
17 (ii) one physician assistant and a mental health professional or
18 substance use disorder professional; or (iii) one psychiatric
19 advanced registered nurse practitioner and a mental health
20 professional or substance use disorder professional; or

21 (b) The person's consent to admission in his or her directive has
22 expired.

23 (2)(a) If the long-term care facility does not have a bed
24 available at the time of discharge, the treating facility may
25 discharge the resident, in consultation with the resident and agent
26 if any, and in accordance with a medically appropriate discharge
27 plan, to another long-term care facility.

28 (b) This section shall apply to inpatient behavioral health
29 treatment admission of long-term care facility residents, regardless
30 of whether the admission is directly from a facility, hospital
31 emergency room, or other location.

32 (c) This section does not restrict the right of the resident to
33 an earlier release from the inpatient treatment facility. This
34 section does not restrict the right of a long-term care facility to
35 initiate transfer or discharge of a resident who is readmitted
36 pursuant to this section, provided that the facility has complied
37 with the laws governing the transfer or discharge of a resident.

38 (3) The joint legislative audit and review committee shall
39 conduct an evaluation of the operation and impact of this section.

1 The committee shall report its findings to the appropriate committees
2 of the legislature by December 1, 2004.

3 **Sec. 27.** RCW 71.34.020 and 2021 c 264 s 26 are each amended to
4 read as follows:

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

7 (1) "Admission" or "admit" means a decision by a physician,
8 physician assistant, or psychiatric advanced registered nurse
9 practitioner that a minor should be examined or treated as a patient
10 in a hospital.

11 (2) "Adolescent" means a minor thirteen years of age or older.

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

18 (4) "Antipsychotic medications" means that class of drugs
19 primarily used to treat serious manifestations of mental illness
20 associated with thought disorders, which includes, but is not limited
21 to, atypical antipsychotic medications.

22 (5) "Approved substance use disorder treatment program" means a
23 program for minors with substance use disorders provided by a
24 treatment program licensed or certified by the department of health
25 as meeting standards adopted under chapter 71.24 RCW.

26 (6) "Attending staff" means any person on the staff of a public
27 or private agency having responsibility for the care and treatment of
28 a minor patient.

29 (7) "Authority" means the Washington state health care authority.

30 (8) "Behavioral health administrative services organization" has
31 the same meaning as provided in RCW 71.24.025.

32 (9) "Behavioral health disorder" means either a mental disorder
33 as defined in this section, a substance use disorder as defined in
34 this section, or a co-occurring mental disorder and substance use
35 disorder.

36 (10) "Child psychiatrist" means a person having a license as a
37 physician and surgeon in this state, who has had graduate training in
38 child psychiatry in a program approved by the American Medical

1 Association or the American Osteopathic Association, and who is board
2 eligible or board certified in child psychiatry.

3 (11) "Children's mental health specialist" means:

4 (a) A mental health professional who has completed a minimum of
5 one hundred actual hours, not quarter or semester hours, of
6 specialized training devoted to the study of child development and
7 the treatment of children; and

8 (b) A mental health professional who has the equivalent of one
9 year of full-time experience in the treatment of children under the
10 supervision of a children's mental health specialist.

11 (12) "Commitment" means a determination by a judge or court
12 commissioner, made after a commitment hearing, that the minor is in
13 need of inpatient diagnosis, evaluation, or treatment or that the
14 minor is in need of less restrictive alternative treatment.

15 (13) "Conditional release" means a revocable modification of a
16 commitment, which may be revoked upon violation of any of its terms.

17 (14) "Co-occurring disorder specialist" means an individual
18 possessing an enhancement granted by the department of health under
19 chapter 18.205 RCW that certifies the individual to provide substance
20 use disorder counseling subject to the practice limitations under RCW
21 18.205.105.

22 (15) "Crisis stabilization unit" means a short-term facility or a
23 portion of a facility licensed or certified by the department of
24 health under RCW 71.24.035, such as a residential treatment facility
25 or a hospital, which has been designed to assess, diagnose, and treat
26 individuals experiencing an acute crisis without the use of long-term
27 hospitalization.

28 (16) "Custody" means involuntary detention under the provisions
29 of this chapter or chapter 10.77 RCW, uninterrupted by any period of
30 unconditional release from commitment from a facility providing
31 involuntary care and treatment.

32 (17) "Department" means the department of social and health
33 services.

34 (18) "Designated crisis responder" has the same meaning as
35 provided in RCW 71.05.020.

36 (19) "Detention" or "detain" means the lawful confinement of a
37 person, under the provisions of this chapter.

38 (20) "Developmental disabilities professional" means a person who
39 has specialized training and three years of experience in directly
40 treating or working with persons with developmental disabilities and

1 is a psychiatrist, physician assistant (~~(working)~~) collaborating with
2 a (~~(supervising)~~) psychiatrist, psychologist, psychiatric advanced
3 registered nurse practitioner, or social worker, and such other
4 developmental disabilities professionals as may be defined by rules
5 adopted by the secretary of the department.

6 (21) "Developmental disability" has the same meaning as defined
7 in RCW 71A.10.020.

8 (22) "Director" means the director of the authority.

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

12 (24) "Evaluation and treatment facility" means a public or
13 private facility or unit that is licensed or certified by the
14 department of health to provide emergency, inpatient, residential, or
15 outpatient mental health evaluation and treatment services for
16 minors. A physically separate and separately operated portion of a
17 state hospital may be designated as an evaluation and treatment
18 facility for minors. A facility which is part of or operated by the
19 state or federal agency does not require licensure or certification.
20 No correctional institution or facility, juvenile court detention
21 facility, or jail may be an evaluation and treatment facility within
22 the meaning of this chapter.

23 (25) "Evaluation and treatment program" means the total system of
24 services and facilities coordinated and approved by a county or
25 combination of counties for the evaluation and treatment of minors
26 under this chapter.

27 (26) "Gravely disabled minor" means a minor who, as a result of a
28 behavioral health disorder, (a) is in danger of serious physical harm
29 resulting from a failure to provide for his or her essential human
30 needs of health or safety, or (b) manifests severe deterioration in
31 routine functioning evidenced by repeated and escalating loss of
32 cognitive or volitional control over his or her actions and is not
33 receiving such care as is essential for his or her health or safety.

34 (27) "Habilitative services" means those services provided by
35 program personnel to assist minors in acquiring and maintaining life
36 skills and in raising their levels of physical, behavioral, social,
37 and vocational functioning. Habilitative services include education,
38 training for employment, and therapy.

39 (28) "Hearing" means any proceeding conducted in open court that
40 conforms to the requirements of RCW 71.34.910.

1 (29) "History of one or more violent acts" refers to the period
2 of time five years prior to the filing of a petition under this
3 chapter, excluding any time spent, but not any violent acts
4 committed, in a mental health facility, a long-term substance use
5 disorder treatment facility, or in confinement as a result of a
6 criminal conviction.

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

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

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

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

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

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

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

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

26 (31)(a) "Inpatient treatment" means twenty-four-hour-per-day
27 mental health care provided within a general hospital, psychiatric
28 hospital, residential treatment facility licensed or certified by the
29 department of health as an evaluation and treatment facility for
30 minors, secure withdrawal management and stabilization facility for
31 minors, or approved substance use disorder treatment program for
32 minors.

33 (b) For purposes of family-initiated treatment under RCW
34 71.34.600 through 71.34.670, "inpatient treatment" has the meaning
35 included in (a) of this subsection and any other residential
36 treatment facility licensed under chapter 71.12 RCW.

37 (32) "Intoxicated minor" means a minor whose mental or physical
38 functioning is substantially impaired as a result of the use of
39 alcohol or other psychoactive chemicals.

1 (33) "Judicial commitment" means a commitment by a court pursuant
2 to the provisions of this chapter.

3 (34) "Kinship caregiver" has the same meaning as in RCW
4 74.13.031(19)(a).

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

9 (36) "Less restrictive alternative" or "less restrictive setting"
10 means outpatient treatment provided to a minor as a program of
11 individualized treatment in a less restrictive setting than inpatient
12 treatment that includes the services described in RCW 71.34.755,
13 including residential treatment.

14 (37) "Licensed physician" means a person licensed to practice
15 medicine or osteopathic medicine and surgery in the state of
16 Washington.

17 (38) "Likelihood of serious harm" means:

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

27 (b) The minor has threatened the physical safety of another and
28 has a history of one or more violent acts.

29 (39) "Managed care organization" has the same meaning as provided
30 in RCW 71.24.025.

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

34 (41) "Medical necessity" for inpatient care means a requested
35 service which is reasonably calculated to: (a) Diagnose, correct,
36 cure, or alleviate a mental disorder or substance use disorder; or
37 (b) prevent the progression of a mental disorder or substance use
38 disorder that endangers life or causes suffering and pain, or results
39 in illness or infirmity or threatens to cause or aggravate a

1 disability, or causes physical deformity or malfunction, and there is
2 no adequate less restrictive alternative available.

3 (42) "Mental disorder" means any organic, mental, or emotional
4 impairment that has substantial adverse effects on an individual's
5 cognitive or volitional functions. The presence of alcohol abuse,
6 drug abuse, juvenile criminal history, antisocial behavior, or
7 intellectual disabilities alone is insufficient to justify a finding
8 of "mental disorder" within the meaning of this section.

9 (43) "Mental health professional" means a psychiatrist,
10 psychiatric advanced registered nurse practitioner, physician
11 assistant (~~(working)~~) collaborating with a (~~(supervising)~~)
12 psychiatrist, psychologist, psychiatric nurse, social worker, and
13 such other mental health professionals as defined by rules adopted by
14 the secretary of the department of health under this chapter.

15 (44) "Minor" means any person under the age of eighteen years.

16 (45) "Outpatient treatment" means any of the nonresidential
17 services mandated under chapter 71.24 RCW and provided by licensed or
18 certified behavioral health agencies as identified by RCW 71.24.025.

19 (46) (a) "Parent" has the same meaning as defined in RCW
20 26.26A.010, including either parent if custody is shared under a
21 joint custody agreement, or a person or agency judicially appointed
22 as legal guardian or custodian of the child.

23 (b) For purposes of family-initiated treatment under RCW
24 71.34.600 through 71.34.670, "parent" also includes a person to whom
25 a parent defined in (a) of this subsection has given a signed
26 authorization to make health care decisions for the adolescent, a
27 stepparent who is involved in caring for the adolescent, a kinship
28 caregiver who is involved in caring for the adolescent, or another
29 relative who is responsible for the health care of the adolescent,
30 who may be required to provide a declaration under penalty of perjury
31 stating that he or she is a relative responsible for the health care
32 of the adolescent pursuant to chapter 5.50 RCW. If a dispute arises
33 between individuals authorized to act as a parent for the purpose of
34 RCW 71.34.600 through 71.34.670, the disagreement must be resolved
35 according to the priority established under RCW 7.70.065(2) (a).

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

1 (48) "Physician assistant" means a person licensed as a physician
2 assistant under chapter 18.71A RCW.

3 (49) "Private agency" means any person, partnership, corporation,
4 or association that is not a public agency, whether or not financed
5 in whole or in part by public funds, that constitutes an evaluation
6 and treatment facility or private institution, or hospital, or
7 approved substance use disorder treatment program, that is conducted
8 for, or includes a distinct unit, floor, or ward conducted for, the
9 care and treatment of persons with mental illness, substance use
10 disorders, or both mental illness and substance use disorders.

11 (50) "Professional person in charge" or "professional person"
12 means a physician, other mental health professional, or other person
13 empowered by an evaluation and treatment facility, secure withdrawal
14 management and stabilization facility, or approved substance use
15 disorder treatment program with authority to make admission and
16 discharge decisions on behalf of that facility.

17 (51) "Psychiatric nurse" means a registered nurse who has
18 experience in the direct treatment of persons who have a mental
19 illness or who are emotionally disturbed, such experience gained
20 under the supervision of a mental health professional.

21 (52) "Psychiatrist" means a person having a license as a
22 physician in this state who has completed residency training in
23 psychiatry in a program approved by the American Medical Association
24 or the American Osteopathic Association, and is board eligible or
25 board certified in psychiatry.

26 (53) "Psychologist" means a person licensed as a psychologist
27 under chapter 18.83 RCW.

28 (54) "Public agency" means any evaluation and treatment facility
29 or institution, or hospital, or approved substance use disorder
30 treatment program that is conducted for, or includes a distinct unit,
31 floor, or ward conducted for, the care and treatment of persons with
32 mental illness, substance use disorders, or both mental illness and
33 substance use disorders if the agency is operated directly by
34 federal, state, county, or municipal government, or a combination of
35 such governments.

36 (55) "Release" means legal termination of the commitment under
37 the provisions of this chapter.

38 (56) "Resource management services" has the meaning given in
39 chapter 71.24 RCW.

1 (57) "Responsible other" means the minor, the minor's parent or
2 estate, or any other person legally responsible for support of the
3 minor.

4 (58) "Secretary" means the secretary of the department or
5 secretary's designee.

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

13 (a) Provide the following services:

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

16 (ii) Clinical stabilization services;

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

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

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

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

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

30 (61) "Start of initial detention" means the time of arrival of
31 the minor at the first evaluation and treatment facility, secure
32 withdrawal management and stabilization facility, or approved
33 substance use disorder treatment program offering inpatient treatment
34 if the minor is being involuntarily detained at the time. With regard
35 to voluntary patients, "start of initial detention" means the time at
36 which the minor gives notice of intent to leave under the provisions
37 of this chapter.

38 (62) "Store and forward technology" means use of an asynchronous
39 transmission of a person's medical information from a mental health

1 service provider to the designated crisis responder which results in
2 medical diagnosis, consultation, or treatment.

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

9 (64) "Substance use disorder professional" means a person
10 certified as a substance use disorder professional by the department
11 of health under chapter 18.205 RCW.

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

18 (66) "Treatment records" include registration and all other
19 records concerning persons who are receiving or who at any time have
20 received services for mental illness, which are maintained by the
21 department, the department of health, the authority, behavioral
22 health organizations and their staffs, and by treatment facilities.
23 Treatment records include mental health information contained in a
24 medical bill including but not limited to mental health drugs, a
25 mental health diagnosis, provider name, and dates of service stemming
26 from a medical service. Treatment records do not include notes or
27 records maintained for personal use by a person providing treatment
28 services for the department, the department of health, the authority,
29 behavioral health organizations, or a treatment facility if the notes
30 or records are not available to others.

31 (67) "Triage facility" means a short-term facility or a portion
32 of a facility licensed or certified by the department of health under
33 RCW 71.24.035, which is designed as a facility to assess and
34 stabilize an individual or determine the need for involuntary
35 commitment of an individual, and must meet department of health
36 residential treatment facility standards. A triage facility may be
37 structured as a voluntary or involuntary placement facility.

38 (68) "Video" means the delivery of behavioral health services
39 through the use of interactive audio and video technology, permitting
40 real-time communication between a person and a designated crisis

1 responder, for the purpose of evaluation. "Video" does not include
2 the use of audio-only telephone, facsimile, email, or store and
3 forward technology.

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

6 **Sec. 28.** RCW 71.34.750 and 2020 c 302 s 94 and 2020 c 185 s 6
7 are each reenacted and amended to read as follows:

8 (1) At any time during the minor's period of fourteen-day
9 commitment, the professional person in charge may petition the court
10 for an order requiring the minor to undergo an additional one hundred
11 eighty-day period of treatment. The evidence in support of the
12 petition shall be presented by the county prosecutor unless the
13 petition is filed by the professional person in charge of a state-
14 operated facility in which case the evidence shall be presented by
15 the attorney general.

16 (2) The petition for one hundred eighty-day commitment shall
17 contain the following:

18 (a) The name and address of the petitioner or petitioners;

19 (b) The name of the minor alleged to meet the criteria for one
20 hundred eighty-day commitment;

21 (c) A statement that the petitioner is the professional person in
22 charge of the evaluation and treatment facility, secure withdrawal
23 management and stabilization facility, or approved substance use
24 disorder treatment program responsible for the treatment of the
25 minor;

26 (d) The date of the fourteen-day commitment order; and

27 (e) A summary of the facts supporting the petition.

28 (3) The petition shall be supported by accompanying affidavits
29 signed by: (a) Two examining physicians, one of whom shall be a child
30 psychiatrist, or two psychiatric advanced registered nurse
31 practitioners, one of whom shall be a child and adolescent or family
32 psychiatric advanced registered nurse practitioner. If the petition
33 is for substance use disorder treatment, the petition may be signed
34 by a substance use disorder professional instead of a mental health
35 professional and by an advanced registered nurse practitioner instead
36 of a psychiatric advanced registered nurse practitioner, or two
37 physician assistants, one of whom must be ~~((supervised by))~~
38 collaborating with a child psychiatrist; (b) one children's mental
39 health specialist and either an examining physician, physician

1 assistant, or a psychiatric advanced registered nurse practitioner;
2 or (c) two among an examining physician, physician assistant, and a
3 psychiatric advanced registered nurse practitioner, one of which
4 needs to be a child psychiatrist, a physician assistant (~~supervised~~
5 ~~by~~) collaborating with a child psychiatrist, or a child and
6 adolescent psychiatric nurse practitioner. The affidavits shall
7 describe in detail the behavior of the detained minor which supports
8 the petition and shall state whether a less restrictive alternative
9 to inpatient treatment is in the best interests of the minor.

10 (4) The petition for one hundred eighty-day commitment shall be
11 filed with the clerk of the court at least three days before the
12 expiration of the fourteen-day commitment period. The petitioner or
13 the petitioner's designee shall within twenty-four hours of filing
14 serve a copy of the petition on the minor and notify the minor's
15 attorney and the minor's parent. A copy of the petition shall be
16 provided to such persons at least twenty-four hours prior to the
17 hearing.

18 (5) At the time of filing, the court shall set a date within
19 seven days for the hearing on the petition. If the hearing is not
20 commenced within thirty days after the filing of the petition,
21 including extensions of time requested by the detained person or his
22 or her attorney or the court in the administration of justice under
23 RCW 71.34.735, the minor must be released. The minor or the parents
24 shall be afforded the same rights as in a fourteen-day commitment
25 hearing. Treatment of the minor shall continue pending the
26 proceeding.

27 (6) For one hundred eighty-day commitment:

28 (a) The court must find by clear, cogent, and convincing evidence
29 that the minor:

30 (i) Is suffering from a mental disorder or substance use
31 disorder;

32 (ii) Presents a likelihood of serious harm or is gravely
33 disabled; and

34 (iii) Is in need of further treatment that only can be provided
35 in a one hundred eighty-day commitment.

36 (b) If commitment is for a substance use disorder, the court must
37 find that there is an available approved substance use disorder
38 treatment program that has adequate space for the minor.

39 (7) In determining whether an inpatient or less restrictive
40 alternative commitment is appropriate, great weight must be given to

1 evidence of a prior history or pattern of decompensation and
2 discontinuation of treatment resulting in: (a) Repeated
3 hospitalizations; or (b) repeated peace officer interventions
4 resulting in juvenile charges. Such evidence may be used to provide a
5 factual basis for concluding that the minor would not receive, if
6 released, such care as is essential for his or her health or safety.

7 (8)(a) If the court finds that the criteria for commitment are
8 met and that less restrictive treatment in a community setting is not
9 appropriate or available, the court shall order the minor committed
10 to the custody of the director for further inpatient mental health
11 treatment, to an approved substance use disorder treatment program
12 for further substance use disorder treatment, or to a private
13 treatment and evaluation facility for inpatient mental health or
14 substance use disorder treatment if the minor's parents have assumed
15 responsibility for payment for the treatment. If the court finds that
16 a less restrictive alternative is in the best interest of the minor,
17 the court shall order less restrictive alternative treatment upon
18 such conditions as necessary.

19 (b) If the court determines that the minor does not meet the
20 criteria for one hundred eighty-day commitment, the minor shall be
21 released.

22 (9) Successive one hundred eighty-day commitments are permissible
23 on the same grounds and under the same procedures as the original one
24 hundred eighty-day commitment. Such petitions shall be filed at least
25 three days prior to the expiration of the previous one hundred
26 eighty-day commitment order.

27 **Sec. 29.** RCW 71.34.750 and 2020 c 302 s 95 and 2020 c 185 s 7
28 are each reenacted and amended to read as follows:

29 (1) At any time during the minor's period of fourteen-day
30 commitment, the professional person in charge may petition the court
31 for an order requiring the minor to undergo an additional one hundred
32 eighty-day period of treatment. The evidence in support of the
33 petition shall be presented by the county prosecutor unless the
34 petition is filed by the professional person in charge of a state-
35 operated facility in which case the evidence shall be presented by
36 the attorney general.

37 (2) The petition for one hundred eighty-day commitment shall
38 contain the following:

39 (a) The name and address of the petitioner or petitioners;

1 (b) The name of the minor alleged to meet the criteria for one
2 hundred eighty-day commitment;

3 (c) A statement that the petitioner is the professional person in
4 charge of the evaluation and treatment facility, secure withdrawal
5 management and stabilization facility, or approved substance use
6 disorder treatment program responsible for the treatment of the
7 minor;

8 (d) The date of the fourteen-day commitment order; and

9 (e) A summary of the facts supporting the petition.

10 (3) The petition shall be supported by accompanying affidavits
11 signed by: (a) Two examining physicians, one of whom shall be a child
12 psychiatrist, or two psychiatric advanced registered nurse
13 practitioners, one of whom shall be a child and adolescent or family
14 psychiatric advanced registered nurse practitioner. If the petition
15 is for substance use disorder treatment, the petition may be signed
16 by a substance use disorder professional instead of a mental health
17 professional and by an advanced registered nurse practitioner instead
18 of a psychiatric advanced registered nurse practitioner, or two
19 physician assistants, one of whom must be (~~supervised by~~)
20 collaborating with a child psychiatrist; (b) one children's mental
21 health specialist and either an examining physician, physician
22 assistant, or a psychiatric advanced registered nurse practitioner;
23 or (c) two among an examining physician, physician assistant, and a
24 psychiatric advanced registered nurse practitioner, one of which
25 needs to be a child psychiatrist, a physician assistant (~~supervised~~
26 ~~by~~) collaborating with a child psychiatrist, or a child and
27 adolescent psychiatric nurse practitioner. The affidavits shall
28 describe in detail the behavior of the detained minor which supports
29 the petition and shall state whether a less restrictive alternative
30 to inpatient treatment is in the best interests of the minor.

31 (4) The petition for one hundred eighty-day commitment shall be
32 filed with the clerk of the court at least three days before the
33 expiration of the fourteen-day commitment period. The petitioner or
34 the petitioner's designee shall within twenty-four hours of filing
35 serve a copy of the petition on the minor and notify the minor's
36 attorney and the minor's parent. A copy of the petition shall be
37 provided to such persons at least twenty-four hours prior to the
38 hearing.

39 (5) At the time of filing, the court shall set a date within
40 seven days for the hearing on the petition. If the hearing is not

1 commenced within thirty days after the filing of the petition,
2 including extensions of time requested by the detained person or his
3 or her attorney or the court in the administration of justice under
4 RCW 71.34.735, the minor must be released. The minor or the parents
5 shall be afforded the same rights as in a fourteen-day commitment
6 hearing. Treatment of the minor shall continue pending the
7 proceeding.

8 (6) For one hundred eighty-day commitment, the court must find by
9 clear, cogent, and convincing evidence that the minor:

10 (a) Is suffering from a mental disorder or substance use
11 disorder;

12 (b) Presents a likelihood of serious harm or is gravely disabled;
13 and

14 (c) Is in need of further treatment that only can be provided in
15 a one hundred eighty-day commitment.

16 (7) In determining whether an inpatient or less restrictive
17 alternative commitment is appropriate, great weight must be given to
18 evidence of a prior history or pattern of decompensation and
19 discontinuation of treatment resulting in: (a) Repeated
20 hospitalizations; or (b) repeated peace officer interventions
21 resulting in juvenile charges. Such evidence may be used to provide a
22 factual basis for concluding that the minor would not receive, if
23 released, such care as is essential for his or her health or safety.

24 (8) (a) If the court finds that the criteria for commitment are
25 met and that less restrictive treatment in a community setting is not
26 appropriate or available, the court shall order the minor committed
27 to the custody of the director for further inpatient mental health
28 treatment, to an approved substance use disorder treatment program
29 for further substance use disorder treatment, or to a private
30 treatment and evaluation facility for inpatient mental health or
31 substance use disorder treatment if the minor's parents have assumed
32 responsibility for payment for the treatment. If the court finds that
33 a less restrictive alternative is in the best interest of the minor,
34 the court shall order less restrictive alternative treatment upon
35 such conditions as necessary.

36 (b) If the court determines that the minor does not meet the
37 criteria for one hundred eighty-day commitment, the minor shall be
38 released.

39 (9) Successive one hundred eighty-day commitments are permissible
40 on the same grounds and under the same procedures as the original one

1 hundred eighty-day commitment. Such petitions shall be filed at least
2 three days prior to the expiration of the previous one hundred
3 eighty-day commitment order.

4 **Sec. 30.** RCW 71.34.755 and 2022 c 210 s 21 are each amended to
5 read as follows:

6 (1) Less restrictive alternative treatment, at a minimum, must
7 include the following services:

8 (a) Assignment of a care coordinator;

9 (b) An intake evaluation with the provider of the less
10 restrictive alternative treatment;

11 (c) A psychiatric evaluation, a substance use disorder
12 evaluation, or both;

13 (d) A schedule of regular contacts with the provider of the less
14 restrictive alternative treatment services for the duration of the
15 order;

16 (e) A transition plan addressing access to continued services at
17 the expiration of the order;

18 (f) An individual crisis plan;

19 (g) Consultation about the formation of a mental health advance
20 directive under chapter 71.32 RCW; and

21 (h) Notification to the care coordinator assigned in (a) of this
22 subsection if reasonable efforts to engage the client fail to produce
23 substantial compliance with court-ordered treatment conditions.

24 (2) Less restrictive alternative treatment may include the
25 following additional services:

26 (a) Medication management;

27 (b) Psychotherapy;

28 (c) Nursing;

29 (d) Substance use disorder counseling;

30 (e) Residential treatment;

31 (f) Partial hospitalization;

32 (g) Intensive outpatient treatment;

33 (h) Support for housing, benefits, education, and employment; and

34 (i) Periodic court review.

35 (3) If the minor was provided with involuntary medication during
36 the involuntary commitment period, the less restrictive alternative
37 treatment order may authorize the less restrictive alternative
38 treatment provider or its designee to administer involuntary
39 antipsychotic medication to the person if the provider has attempted

1 and failed to obtain the informed consent of the person and there is
2 a concurring medical opinion approving the medication by a
3 psychiatrist, physician assistant (~~(working)~~) collaborating with a
4 (~~(supervising)~~) psychiatrist, psychiatric advanced registered nurse
5 practitioner, or physician or physician assistant in consultation
6 with an independent mental health professional with prescribing
7 authority.

8 (4) Less restrictive alternative treatment must be administered
9 by a provider that is certified or licensed to provide or coordinate
10 the full scope of services required under the less restrictive
11 alternative order and that has agreed to assume this responsibility.

12 (5) The care coordinator assigned to a minor ordered to less
13 restrictive alternative treatment must submit an individualized plan
14 for the minor's treatment services to the court that entered the
15 order. An initial plan must be submitted as soon as possible
16 following the intake evaluation and a revised plan must be submitted
17 upon any subsequent modification in which a type of service is
18 removed from or added to the treatment plan.

19 (6) A care coordinator may disclose information and records
20 related to mental health services pursuant to RCW 70.02.230(2)(k) for
21 purposes of implementing less restrictive alternative treatment.

22 (7) For the purpose of this section, "care coordinator" means a
23 clinical practitioner who coordinates the activities of less
24 restrictive alternative treatment. The care coordinator coordinates
25 activities with the designated crisis responders that are necessary
26 for enforcement and continuation of less restrictive alternative
27 treatment orders and is responsible for coordinating service
28 activities with other agencies and establishing and maintaining a
29 therapeutic relationship with the individual on a continuing basis.

30 **Sec. 31.** RCW 74.09.497 and 2017 c 226 s 2 are each amended to
31 read as follows:

32 (1) By August 1, 2017, the authority must complete a review of
33 payment codes available to health plans and providers related to
34 primary care and behavioral health. The review must include
35 adjustments to payment rules if needed to facilitate bidirectional
36 integration. The review must involve stakeholders and include
37 consideration of the following principles to the extent allowed by
38 federal law:

1 (a) Payment rules must allow professionals to operate within the
2 full scope of their practice;

3 (b) Payment rules should allow medically necessary behavioral
4 health services for covered patients to be provided in any setting;

5 (c) Payment rules should allow medically necessary primary care
6 services for covered patients to be provided in any setting;

7 (d) Payment rules and provider communications related to payment
8 should facilitate integration of physical and behavioral health
9 services through multifaceted models, including primary care
10 behavioral health, whole-person care in behavioral health,
11 collaborative care, and other models;

12 (e) Payment rules should be designed liberally to encourage
13 innovation and ease future transitions to more integrated models of
14 payment and more integrated models of care;

15 (f) Payment rules should allow health and behavior codes to be
16 reimbursed for all patients in primary care settings as provided by
17 any licensed behavioral health professional operating within their
18 scope of practice, including but not limited to psychiatrists,
19 psychologists, psychiatric advanced registered nurse professionals,
20 physician assistants (~~(working)~~) collaborating with a (~~(supervising)~~)
21 psychiatrist, psychiatric nurses, mental health counselors, social
22 workers, chemical dependency professionals, chemical dependency
23 professional trainees, marriage and family therapists, and mental
24 health counselor associates under the supervision of a licensed
25 clinician;

26 (g) Payment rules should allow health and behavior codes to be
27 reimbursed for all patients in behavioral health settings as provided
28 by any licensed health care provider within the provider's scope of
29 practice;

30 (h) Payment rules which limit same-day billing for providers
31 using the same provider number, require prior authorization for low-
32 level or routine behavioral health care, or prohibit payment when the
33 patient is not present should be implemented only when consistent
34 with national coding conventions and consonant with accepted best
35 practices in the field.

36 (2) Concurrent with the review described in subsection (1) of
37 this section, the authority must create matrices listing the
38 following codes available for provider payment through medical
39 assistance programs: All behavioral health-related codes; and all
40 physical health-related codes available for payment when provided in

1 licensed behavioral health agencies. The authority must clearly
2 explain applicable payment rules in order to increase awareness among
3 providers, standardize billing practices, and reduce common and
4 avoidable billing errors. The authority must disseminate this
5 information in a manner calculated to maximally reach all relevant
6 plans and providers. The authority must update the provider billing
7 guide to maintain consistency of information.

8 (3) The authority must inform the governor and relevant
9 committees of the legislature by letter of the steps taken pursuant
10 to this section and results achieved once the work has been
11 completed.

12 NEW SECTION. **Sec. 32.** Sections 1 through 8, 10 through 28, 30,
13 and 31 of this act take effect January 1, 2025.

14 NEW SECTION. **Sec. 33.** Section 19 of this act expires when
15 section 2, chapter 210, Laws of 2022 takes effect.

16 NEW SECTION. **Sec. 34.** Section 27 of this act expires when
17 section 28, chapter 264, Laws of 2021 takes effect.

18 NEW SECTION. **Sec. 35.** Section 28 of this act expires July 1,
19 2026.

20 NEW SECTION. **Sec. 36.** Section 29 of this act takes effect July
21 1, 2026.

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