
SUBSTITUTE SENATE BILL 5380

State of Washington**66th Legislature****2019 Regular Session**

By Senate Health & Long Term Care (originally sponsored by Senators Cleveland, Rivers, Frockt, Walsh, Keiser, King, Randall, O'Ban, Conway, Darneille, Saldaña, Das, Dhingra, Hunt, Wilson, C., and Zeiger; by request of Office of the Governor)

1 AN ACT Relating to opioid use disorder treatment, prevention, and
2 related services; amending RCW 69.41.055, 69.41.095, 70.41.480,
3 70.168.090, 70.225.010, 70.225.040, 71.24.011, 71.24.560, 71.24.585,
4 71.24.590, and 71.24.595; amending 2005 c 70 s 1 (uncodified);
5 reenacting and amending RCW 69.50.312, 70.225.020, and 71.24.580;
6 adding a new section to chapter 18.22 RCW; adding a new section to
7 chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding
8 a new section to chapter 18.57A RCW; adding a new section to chapter
9 18.64 RCW; adding a new section to chapter 18.71 RCW; adding a new
10 section to chapter 18.71A RCW; adding a new section to chapter 18.79
11 RCW; adding new sections to chapter 43.70 RCW; adding a new section
12 to chapter 69.50 RCW; adding a new section to chapter 70.225 RCW;
13 adding new sections to chapter 71.24 RCW; adding a new section to
14 chapter 74.09 RCW; and creating a new section.

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

16 NEW SECTION. **Sec. 1.** The legislature declares that opioid use
17 disorder is a public health crisis. State agencies must increase
18 access to evidence-based opioid use disorder treatment services,
19 promote coordination of services within the substance use disorder
20 treatment and recovery support system, strengthen partnerships
21 between opioid use disorder treatment providers and their allied

1 community partners, expand the use of the Washington state
2 prescription drug monitoring program, and support comprehensive
3 school and community-based substance use prevention services.

4 This act leverages the direction provided by the Washington state
5 interagency opioid working plan in order to address the opioid
6 epidemic challenging communities throughout the state.

7 Agencies administering state purchased health care programs, as
8 defined in RCW 41.05.011, shall coordinate activities to implement
9 the provisions of this act and the Washington state interagency
10 opioid working plan, explore opportunities to address the opioid
11 epidemic, and provide status updates as directed by the joint
12 legislative executive committee on health care oversight to promote
13 legislative and executive coordination.

14 **Sec. 2.** 2005 c 70 s 1 (uncodified) is amended to read as
15 follows:

16 The legislature finds that drug use among pregnant ~~((women))~~
17 individuals is a significant and growing concern statewide. ~~((The~~
18 ~~legislature further finds that methadone, although an effective~~
19 ~~alternative to other substance use treatments, can result in babies~~
20 ~~who are exposed to methadone while in uteri being born addicted and~~
21 ~~facing the painful effects of withdrawal.))~~ Evidence-informed group
22 prenatal care reduces preterm birth for infants, and increases
23 maternal social cohesion and support during pregnancy and postpartum,
24 which is good for maternal mental health.

25 It is the intent of the legislature to notify all pregnant
26 ~~((mothers))~~ individuals who are receiving ~~((methadone treatment))~~
27 medication for the treatment of opioid use disorder of the risks and
28 benefits ~~((methadone))~~ such medication could have on their baby
29 during pregnancy through birth and to inform them of the potential
30 need for the newborn baby to be ~~((taken care of))~~ treated in a
31 hospital setting or in a specialized supportive environment designed
32 specifically to address ~~((newborn addiction problems))~~ and manage
33 neonatal opioid or other drug withdrawal syndromes.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.22
35 RCW to read as follows:

36 By January 1, 2020, the board must adopt or amend its rules to
37 require podiatric physicians who prescribe opioids to inform patients
38 of their right to refuse an opioid prescription or order for any

1 reason. If a patient indicates a desire to not receive an opioid, the
2 podiatric physician must document the patient's request and avoid
3 prescribing or ordering opioids, unless the request is revoked by the
4 patient.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.32
6 RCW to read as follows:

7 By January 1, 2020, the commission must adopt or amend its rules
8 to require dentists who prescribe opioids to inform patients of their
9 right to refuse an opioid prescription or order for any reason. If a
10 patient indicates a desire to not receive an opioid, the dentist must
11 document the patient's request and avoid prescribing or ordering
12 opioids, unless the request is revoked by the patient.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.57
14 RCW to read as follows:

15 By January 1, 2020, the board must adopt or amend its rules to
16 require osteopathic physicians who prescribe opioids to inform
17 patients of their right to refuse an opioid prescription or order for
18 any reason. If a patient indicates a desire to not receive an opioid,
19 the osteopathic physician must document the patient's request and
20 avoid prescribing or ordering opioids, unless the request is revoked
21 by the patient.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.57A
23 RCW to read as follows:

24 By January 1, 2020, the board must adopt or amend its rules to
25 require osteopathic physicians' assistants who prescribe opioids to
26 inform patients of their right to refuse an opioid prescription or
27 order for any reason. If a patient indicates a desire to not receive
28 an opioid, the osteopathic physician's assistant must document the
29 patient's request and avoid prescribing or ordering opioids, unless
30 the request is revoked by the patient.

31 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.64
32 RCW to read as follows:

33 A pharmacist may partially fill a prescription for a schedule II
34 controlled substance, if the partial fill is requested by the patient
35 or the prescribing practitioner and the total quantity dispensed in
36 all partial fillings does not exceed the quantity prescribed.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.71
2 RCW to read as follows:

3 By January 1, 2020, the commission must adopt or amend its rules
4 to require physicians who prescribe opioids to inform patients of
5 their right to refuse an opioid prescription or order for any reason.
6 If a patient indicates a desire to not receive an opioid, the
7 physician must document the patient's request and avoid prescribing
8 or ordering opioids, unless the request is revoked by the patient.

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 18.71A
10 RCW to read as follows:

11 By January 1, 2020, the commission must adopt or amend its rules
12 to require physician assistants who prescribe opioids to inform
13 patients of their right to refuse an opioid prescription or order for
14 any reason. If a patient indicates a desire to not receive an opioid,
15 the physician assistant must document the patient's request and avoid
16 prescribing or ordering opioids, unless the request is revoked by the
17 patient.

18 NEW SECTION. **Sec. 10.** A new section is added to chapter 18.79
19 RCW to read as follows:

20 By January 1, 2020, the commission must adopt or amend its rules
21 to require advanced registered nurse practitioners who prescribe
22 opioids to inform patients of their right to refuse an opioid
23 prescription or order for any reason. If a patient indicates a desire
24 to not receive an opioid, the advanced registered nurse practitioner
25 must document the patient's request and avoid prescribing or ordering
26 opioids, unless the request is revoked by the patient.

27 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.70
28 RCW to read as follows:

29 (1) The department must create a statement warning individuals
30 about the risks of opioid use and abuse and provide information about
31 safe disposal of opioids. The department must provide the warning on
32 its web site.

33 (2) The department must review the science, data, and best
34 practices around the use of opioids and their associated risks. As
35 evidence and best practices evolve, the department must update its
36 warning to reflect these changes.

1 (3) The department must update its patient education materials to
2 reflect the patient's right to refuse an opioid prescription or
3 order.

4 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.70
5 RCW to read as follows:

6 The secretary shall be responsible for coordinating the statewide
7 response to the opioid epidemic and executing the state opioid
8 response plan, in partnership with the health care authority. The
9 department and the health care authority must collaborate with each
10 of the agencies and organizations identified in the state opioid
11 response plan.

12 **Sec. 13.** RCW 69.41.055 and 2016 c 148 s 15 are each amended to
13 read as follows:

14 (1) Information concerning an original prescription or
15 information concerning a prescription refill for a legend drug may be
16 electronically communicated between an authorized practitioner and a
17 pharmacy of the patient's choice with no intervening person having
18 access to the prescription drug order pursuant to the provisions of
19 this chapter if the electronically communicated prescription
20 information complies with the following:

21 (a) Electronically communicated prescription information must
22 comply with all applicable statutes and rules regarding the form,
23 content, recordkeeping, and processing of a prescription or order for
24 a legend drug;

25 (b) ~~((The system used for transmitting electronically
26 communicated prescription information and the system used for
27 receiving electronically communicated prescription information must
28 be approved by the commission. This subsection does not apply to
29 currently used facsimile equipment transmitting an exact visual image
30 of the prescription. The commission shall maintain and provide, upon
31 request, a list of systems used for electronically communicating
32 prescription information currently approved by the commission;~~

33 ~~(e))~~ An explicit opportunity for practitioners must be made to
34 indicate their preference on whether or not a therapeutically
35 equivalent generic drug or interchangeable biological product may be
36 substituted. This section does not limit the ability of practitioners
37 and pharmacists to permit substitution by default under a prior-
38 consent authorization;

1 ~~((d))~~ (c) Prescription drug orders are confidential health
2 information, and may be released only to the patient or the patient's
3 authorized representative, the prescriber or other authorized
4 practitioner then caring for the patient, or other persons
5 specifically authorized by law to receive such information;

6 ~~((e))~~ (d) To maintain confidentiality of prescription records,
7 the electronic system shall have adequate security and systems
8 safeguards designed to prevent and detect unauthorized access,
9 modification, or manipulation of these records(~~(. The pharmacist in~~
10 ~~charge shall establish or verify the existence of policies and~~
11 ~~procedures which ensure the integrity and confidentiality of~~
12 ~~prescription information transmitted to the pharmacy by electronic~~
13 ~~means. All managers, employees, and agents of the pharmacy are~~
14 ~~required to read, sign, and comply with the established policies and~~
15 ~~procedures)); and~~

16 ~~((f))~~ (e) The pharmacist shall exercise professional judgment
17 regarding the accuracy, validity, and authenticity of the
18 prescription drug order received by way of electronic transmission,
19 consistent with federal and state laws and rules and guidelines of
20 the commission.

21 (2) The electronic or digital signature of the prescribing
22 practitioner's agent on behalf of the prescribing practitioner for a
23 resident in a long-term care facility or hospice program, pursuant to
24 a valid order and authorization under RCW 18.64.550, constitutes a
25 valid electronic communication of prescription information. Such an
26 authorized signature and transmission by an agent in a long-term care
27 facility or hospice program does not constitute an intervening person
28 having access to the prescription drug order.

29 (3) The commission may adopt rules implementing this section.

30 **Sec. 14.** RCW 69.41.095 and 2015 c 205 s 2 are each amended to
31 read as follows:

32 (1)(a) A practitioner may prescribe, dispense, distribute, and
33 deliver an opioid overdose reversal medication: (i) Directly to a
34 person at risk of experiencing an opioid-related overdose; or (ii) by
35 prescription, collaborative drug therapy agreement, standing order,
36 or protocol to a first responder, family member, or other person or
37 entity in a position to assist a person at risk of experiencing an
38 opioid-related overdose. Any such prescription, standing order, or

1 protocol (~~order~~) is issued for a legitimate medical purpose in the
2 usual course of professional practice.

3 (b) At the time of prescribing, dispensing, distributing, or
4 delivering the opioid overdose reversal medication, the practitioner
5 shall inform the recipient that as soon as possible after
6 administration of the opioid overdose reversal medication, the person
7 at risk of experiencing an opioid-related overdose should be
8 transported to a hospital or a first responder should be summoned.

9 (2) A pharmacist may dispense an opioid overdose reversal
10 medication pursuant to a prescription, collaborative drug therapy
11 agreement, standing order, or protocol issued in accordance with
12 subsection (1)(a) of this section and may administer an opioid
13 overdose reversal medication to a person at risk of experiencing an
14 opioid-related overdose. At the time of dispensing an opioid overdose
15 reversal medication, a pharmacist shall provide written instructions
16 on the proper response to an opioid-related overdose, including
17 instructions for seeking immediate medical attention. The
18 instructions to seek immediate (~~medication~~) medical attention must
19 be conspicuously displayed.

20 (3) Any person or entity may lawfully possess, store, deliver,
21 distribute, or administer an opioid overdose reversal medication
22 pursuant to a prescription (~~or~~), collaborative drug therapy
23 agreement, standing order, or protocol issued by a practitioner in
24 accordance with subsection (1) of this section.

25 (4) The following individuals, if acting in good faith and with
26 reasonable care, are not subject to criminal or civil liability or
27 disciplinary action under chapter 18.130 RCW for any actions
28 authorized by this section or the outcomes of any actions authorized
29 by this section:

30 (a) A practitioner who prescribes, dispenses, distributes, or
31 delivers an opioid overdose reversal medication pursuant to
32 subsection (1) of this section;

33 (b) A pharmacist who dispenses an opioid overdose reversal
34 medication pursuant to subsection (2) or (5)(a) of this section;

35 (c) A person who possesses, stores, distributes, or administers
36 an opioid overdose reversal medication pursuant to subsection (3) of
37 this section.

38 (5) The secretary or the secretary's designee may issue a
39 standing order prescribing opioid overdose reversal medications to
40 any person at risk of experiencing an opioid-related overdose or any

1 person or entity in a position to assist a person at risk of
2 experiencing an opioid-related overdose. The standing order may be
3 limited to specific areas in the state or issued statewide.

4 (a) A pharmacist shall dispense an opioid overdose reversal
5 medication pursuant to a standing order issued in accordance with
6 this subsection, consistent with the pharmacist's responsibilities to
7 dispense prescribed legend drugs, and may administer an opioid
8 overdose reversal medication to a person at risk of experiencing an
9 opioid-related overdose. At the time of dispensing an opioid overdose
10 reversal medication, a pharmacist shall provide written instructions
11 on the proper response to an opioid-related overdose, including
12 instructions for seeking immediate medical attention. The
13 instructions to seek immediate medical attention must be
14 conspicuously displayed.

15 (b) Any person or entity may lawfully possess, store, deliver,
16 distribute, or administer an opioid overdose reversal medication
17 pursuant to a standing order issued in accordance with this
18 subsection (5). The department, in coordination with the appropriate
19 entity or entities, shall ensure availability of a training module
20 that provides training regarding the identification of a person
21 suffering from an opioid-related overdose and the use of opioid
22 overdose reversal medications. The training must be available
23 electronically and in a variety of media from the department.

24 (c) This subsection (5) does not create a private cause of
25 action. Notwithstanding any other provision of law, neither the state
26 nor the secretary nor the secretary's designee has any civil
27 liability for issuing standing orders or for any other actions taken
28 pursuant to this chapter or for the outcomes of issuing standing
29 orders or any other actions taken pursuant to this chapter. Neither
30 the secretary nor the secretary's designee is subject to any criminal
31 liability or professional disciplinary action for issuing standing
32 orders or for any other actions taken pursuant to this chapter.

33 (d) For purposes of this subsection (5), "standing order" means
34 an order prescribing medication by the secretary or the secretary's
35 designee. Such standing order can only be issued by a practitioner as
36 defined in this chapter.

37 (6) The labeling requirements of RCW 69.41.050 and 18.64.246 do
38 not apply to opioid overdose reversal medications dispensed,
39 distributed, or delivered pursuant to a prescription, collaborative
40 drug therapy agreement, standing order, or protocol issued in

1 accordance with this section. The individual or entity that
2 dispenses, distributes, or delivers an opioid overdose reversal
3 medication as authorized by this section shall ensure that directions
4 for use are provided.

5 (7) For purposes of this section, the following terms have the
6 following meanings unless the context clearly requires otherwise:

7 (a) "First responder" means: (i) A career or volunteer
8 firefighter, law enforcement officer, paramedic as defined in RCW
9 18.71.200, or first responder or emergency medical technician as
10 defined in RCW 18.73.030; and (ii) an entity that employs or
11 supervises an individual listed in (a)(i) of this subsection,
12 including a volunteer fire department.

13 (b) "Opioid overdose reversal medication" means any drug used to
14 reverse an opioid overdose that binds to opioid receptors and blocks
15 or inhibits the effects of opioids acting on those receptors. It does
16 not include intentional administration via the intravenous route.

17 (c) "Opioid-related overdose" means a condition including, but
18 not limited to, (~~extreme physical illness,~~) decreased level of
19 consciousness, nonresponsiveness, respiratory depression, coma, or
20 death that: (i) Results from the consumption or use of an opioid or
21 another substance with which an opioid was combined; or (ii) a lay
22 person would reasonably believe to be an opioid-related overdose
23 requiring medical assistance.

24 (d) "Practitioner" means a health care practitioner who is
25 authorized under RCW 69.41.030 to prescribe legend drugs.

26 (e) "Standing order" or "protocol" means written or
27 electronically recorded instructions, prepared by a prescriber, for
28 distribution and administration of a drug by designated and trained
29 staff or volunteers of an organization or entity, as well as other
30 actions and interventions to be used upon the occurrence of clearly
31 defined clinical events in order to improve patients' timely access
32 to treatment.

33 **Sec. 15.** RCW 69.50.312 and 2013 c 276 s 4 and 2013 c 19 s 105
34 are each reenacted and amended to read as follows:

35 (1) Information concerning a prescription for a controlled
36 substance included in Schedules II through V, or information
37 concerning a refill authorization for a controlled substance included
38 in Schedules III through V(~~(+)~~), may be electronically communicated
39 to a pharmacy of the patient's choice pursuant to the provisions of

1 this chapter if the electronically communicated prescription
2 information complies with the following:

3 (a) Electronically communicated prescription information must
4 comply with all applicable statutes and rules regarding the form,
5 content, recordkeeping, and processing of a prescription for a legend
6 drug;

7 (b) The system used for transmitting electronically communicated
8 prescription information must (~~(be approved by the commission and in~~
9 ~~accordance))~~ comply with federal rules for electronically
10 communicated prescriptions for controlled substance(~~(+s+))~~s included
11 in Schedules II through V, as set forth in Title 21 C.F.R. Parts
12 1300, 1304, 1306, and 1311(~~(. This subsection does not apply to~~
13 ~~currently used facsimile equipment transmitting an exact visual image~~
14 ~~of the prescription. The commission shall maintain and provide, upon~~
15 ~~request, a list of systems used for electronically communicating~~
16 ~~prescription information currently approved by the commission))~~);

17 (c) An explicit opportunity for practitioners must be made to
18 indicate their preference on whether a therapeutically equivalent
19 generic drug may be substituted;

20 (d) Prescription drug orders are confidential health information,
21 and may be released only to the patient or the patient's authorized
22 representative, the prescriber or other authorized practitioner then
23 caring for the patient, or other persons specifically authorized by
24 law to receive such information;

25 (e) To maintain confidentiality of prescription records, the
26 electronic system shall have adequate security and systems safeguards
27 designed to prevent and detect unauthorized access, modification, or
28 manipulation of these records(~~(. The pharmacist in charge shall~~
29 ~~establish or verify the existence of policies and procedures which~~
30 ~~ensure the integrity and confidentiality of prescription information~~
31 ~~transmitted to the pharmacy by electronic means. All managers,~~
32 ~~employees, and agents of the pharmacy are required to read, sign, and~~
33 ~~comply with the established policies and procedures))~~; and

34 (f) The pharmacist shall exercise professional judgment regarding
35 the accuracy, validity, and authenticity of the prescription drug
36 order received by way of electronic transmission, consistent with
37 federal and state laws and rules and guidelines of the commission.

38 (2) The commission may adopt rules implementing this section.

1 NEW SECTION. **Sec. 16.** A new section is added to chapter 69.50
2 RCW to read as follows:

3 (1) Any practitioner who writes the first prescription for an
4 opioid during the course of treatment to any patient must, under
5 professional rules, discuss the following with the patient:

6 (a) The risks of opioids, including risk of dependence and
7 overdose;

8 (b) Pain management alternatives to opioids, including nonopioid
9 pharmacological treatments, and nonpharmacological treatments
10 available to the patient, at the discretion of the practitioner and
11 based on the medical condition of the patient; and

12 (c) A written copy of the warning language provided by the
13 department under section 11 of this act.

14 (2) If the patient is under eighteen years old or is not
15 competent, the discussion required by subsection (1) of this section
16 must include the patient's parent, guardian, or the person identified
17 in RCW 7.70.065, unless otherwise provided by law.

18 (3) The practitioner shall document completion of the
19 requirements in subsection (1) of this section in the patient's
20 health care record.

21 (4) To fulfill the requirements of subsection (1) of this
22 section, a practitioner may designate any individual who holds a
23 credential issued by a disciplining authority under RCW 18.130.040 to
24 conduct the discussion.

25 (5) Violation of this section constitutes unprofessional conduct
26 under chapter 18.130 RCW.

27 (6) This section does not apply to:

28 (a) Opioid prescriptions issued for the treatment of pain
29 associated with terminal cancer or other terminal diseases, or for
30 palliative, hospice, or other end-of-life care of where the
31 practitioner determines the health, well-being, or care of the
32 patient would be compromised by the requirements of this section and
33 documents such basis for the determination in the patient's health
34 care record; or

35 (b) Administration of an opioid in an inpatient or outpatient
36 treatment setting.

37 (7) This section does not apply to practitioners licensed under
38 chapter 18.92 RCW.

1 (8) The department shall review this section by March 31, 2026,
2 and report to the appropriate committees of the legislature on
3 whether this section should be retained, repealed, or amended.

4 **Sec. 17.** RCW 70.41.480 and 2015 c 234 s 1 are each amended to
5 read as follows:

6 (1) The legislature finds that high quality, safe, and
7 compassionate health care services for patients of Washington state
8 must be available at all times. The legislature further finds that
9 there is a need for patients being released from hospital emergency
10 departments to maintain access to emergency medications when
11 community or hospital pharmacy services are not available, including
12 medication for opioid overdose reversal and for the treatment for
13 opioid use disorder as appropriate. It is the intent of the
14 legislature to accomplish this objective by allowing practitioners
15 with prescriptive authority to prescribe limited amounts of
16 prepackaged emergency medications to patients being discharged from
17 hospital emergency departments when access to community or outpatient
18 hospital pharmacy services is not otherwise available.

19 (2) A hospital may allow a practitioner to prescribe prepackaged
20 emergency medications and allow a practitioner or a registered nurse
21 licensed under chapter 18.79 RCW to distribute prepackaged emergency
22 medications to patients being discharged from a hospital emergency
23 department in the following circumstances:

24 (a) During times when community or outpatient hospital pharmacy
25 services are not available within fifteen miles by road ((~~or~~));

26 (b) When, in the judgment of the practitioner and consistent with
27 hospital policies and procedures, a patient has no reasonable ability
28 to reach the local community or outpatient pharmacy; or

29 (c) When, in the judgment of the practitioner and consistent with
30 hospital policies and procedures, a patient is at risk of opioid
31 overdose and the prepackaged emergency medication being distributed
32 is an opioid overdose reversal medication. The labeling requirements
33 of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose
34 reversal medications dispensed, distributed, or delivered pursuant to
35 a prescription, collaborative drug therapy agreement, standing order,
36 or protocol issued in accordance with this section. The individual or
37 entity that dispenses, distributes, or delivers an opioid overdose
38 reversal medication as authorized by this section must ensure that
39 directions for use are provided.

1 (3) A hospital may only allow this practice if: The director of
2 the hospital pharmacy, in collaboration with appropriate hospital
3 medical staff, develops policies and procedures regarding the
4 following:

5 (a) Development of a list, preapproved by the pharmacy director,
6 of the types of emergency medications to be prepackaged and
7 distributed;

8 (b) Assurances that emergency medications to be prepackaged
9 pursuant to this section are prepared by a pharmacist or under the
10 supervision of a pharmacist licensed under chapter 18.64 RCW;

11 (c) Development of specific criteria under which emergency
12 prepackaged medications may be prescribed and distributed consistent
13 with the limitations of this section;

14 (d) Assurances that any practitioner authorized to prescribe
15 prepackaged emergency medication or any nurse authorized to
16 distribute prepackaged emergency medication is trained on the types
17 of medications available and the circumstances under which they may
18 be distributed;

19 (e) Procedures to require practitioners intending to prescribe
20 prepackaged emergency medications pursuant to this section to
21 maintain a valid prescription either in writing or electronically in
22 the patient's records prior to a medication being distributed to a
23 patient;

24 (f) Establishment of a limit of no more than a forty-eight hour
25 supply of emergency medication as the maximum to be dispensed to a
26 patient, except when community or hospital pharmacy services will not
27 be available within forty-eight hours. In no case may the policy
28 allow a supply exceeding ninety-six hours be dispensed;

29 (g) Assurances that prepackaged emergency medications will be
30 kept in a secure location in or near the emergency department in such
31 a manner as to preclude the necessity for entry into the pharmacy;
32 and

33 (h) Assurances that nurses or practitioners will distribute
34 prepackaged emergency medications to patients only after a
35 practitioner has counseled the patient on the medication.

36 (~~(3)~~) (4) The delivery of a single dose of medication for
37 immediate administration to the patient is not subject to the
38 requirements of this section.

1 (~~(4)~~) (5) Nothing in this section restricts the authority of a
2 practitioner in a hospital emergency department to distribute opioid
3 overdose reversal medication under RCW 69.41.095.

4 (6) For purposes of this section:

5 (a) "Emergency medication" means any medication commonly
6 prescribed to emergency (~~room~~) department patients, including those
7 drugs, substances or immediate precursors listed in schedules II
8 through V of the uniform controlled substances act, chapter 69.50
9 RCW, as now or hereafter amended.

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

12 (c) "Practitioner" means any person duly authorized by law or
13 rule in the state of Washington to prescribe drugs as defined in RCW
14 18.64.011(~~(24)~~) (29).

15 (d) "Nurse" means a registered nurse as defined in RCW 18.79.020.

16 **Sec. 18.** RCW 70.168.090 and 2010 c 52 s 5 are each amended to
17 read as follows:

18 (1) (a) By July 1991, the department shall establish a statewide
19 data registry to collect and analyze data on the incidence, severity,
20 and causes of trauma, including traumatic brain injury. The
21 department shall collect additional data on traumatic brain injury
22 should additional data requirements be enacted by the legislature.
23 The registry shall be used to improve the availability and delivery
24 of prehospital and hospital trauma care services. Specific data
25 elements of the registry shall be defined by rule by the department.
26 To the extent possible, the department shall coordinate data
27 collection from hospitals for the trauma registry with the health
28 care data system authorized in chapter 70.170 RCW. Every hospital,
29 facility, or health care provider authorized to provide level I, II,
30 III, IV, or V trauma care services, level I, II, or III pediatric
31 trauma care services, level I, level I-pediatric, II, or III trauma-
32 related rehabilitative services, and prehospital trauma-related
33 services in the state shall furnish data to the registry. All other
34 hospitals and prehospital providers shall furnish trauma data as
35 required by the department by rule.

36 (b) The department may respond to requests for data and other
37 information from the registry for special studies and analysis
38 consistent with requirements for confidentiality of patient and
39 quality assurance records. The department may require requestors to

1 pay any or all of the reasonable costs associated with such requests
2 that might be approved.

3 (2) The department must establish a statewide electronic
4 emergency medical services data system and adopt rules requiring
5 licensed ambulance and aid services to report and furnish patient
6 encounter data to the electronic emergency medical services data
7 system. The data system must be used to improve the availability and
8 delivery of prehospital emergency medical services. The department
9 must establish in rule the specific data elements of the data system
10 and secure transport methods for data. The data collected must
11 include data on suspected drug overdoses for the purposes of
12 including, but not limited to, identifying individuals to engage
13 substance use disorder peer professionals, patient navigators,
14 outreach workers, and other professionals as appropriate to prevent
15 further overdoses and to induct into treatment and provide other
16 needed supports as may be available.

17 (3) In each emergency medical services and trauma care planning
18 and service region, a regional emergency medical services and trauma
19 care systems quality assurance program shall be established by those
20 facilities authorized to provide levels I, II, and III trauma care
21 services. The systems quality assurance program shall evaluate trauma
22 care delivery, patient care outcomes, and compliance with the
23 requirements of this chapter. The systems quality assurance program
24 may also evaluate emergency cardiac and stroke care delivery. The
25 emergency medical services medical program director and all other
26 health care providers and facilities who provide trauma and emergency
27 cardiac and stroke care services within the region shall be invited
28 to participate in the regional emergency medical services and trauma
29 care quality assurance program.

30 ~~((3))~~ (4) Data elements related to the identification of
31 individual patient's, provider's and facility's care outcomes shall
32 be confidential, shall be exempt from RCW 42.56.030 through 42.56.570
33 and 42.17.350 through 42.17.450, and shall not be subject to
34 discovery by subpoena or admissible as evidence.

35 ~~((4))~~ (5) Patient care quality assurance proceedings, records,
36 and reports developed pursuant to this section are confidential,
37 exempt from chapter 42.56 RCW, and are not subject to discovery by
38 subpoena or admissible as evidence~~((--))~~ in any civil action, except,
39 after in camera review, pursuant to a court order which provides for
40 the protection of sensitive information of interested parties

1 including the department: (a) In actions arising out of the
2 department's designation of a hospital or health care facility
3 pursuant to RCW 70.168.070; (b) in actions arising out of the
4 department's revocation or suspension of designation status of a
5 hospital or health care facility under RCW 70.168.070; (c) in actions
6 arising out of the department's licensing or verification of an
7 ambulance or aid service pursuant to RCW 18.73.030 or 70.168.080; (d)
8 in actions arising out of the certification of a medical program
9 director pursuant to RCW 18.71.212; or ~~((e))~~ (e) in actions arising
10 out of the restriction or revocation of the clinical or staff
11 privileges of a health care provider as defined in RCW 7.70.020 (1)
12 and (2), subject to any further restrictions on disclosure in RCW
13 4.24.250 that may apply. Information that identifies individual
14 patients shall not be publicly disclosed without the patient's
15 consent.

16 **Sec. 19.** RCW 70.225.010 and 2007 c 259 s 42 are each amended to
17 read as follows:

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

20 (1) "Controlled substance" has the meaning provided in RCW
21 69.50.101.

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

23 (3) "Patient" means the person or animal who is the ultimate user
24 of a drug for whom a prescription is issued or for whom a drug is
25 dispensed.

26 (4) "Dispenser" means a practitioner or pharmacy that delivers a
27 Schedule II, III, IV, or V controlled substance to the ultimate user,
28 but does not include:

29 (a) A practitioner or other authorized person who administers, as
30 defined in RCW 69.41.010, a controlled substance; or

31 (b) A licensed wholesale distributor or manufacturer, as defined
32 in chapter 18.64 RCW, of a controlled substance.

33 (5) "Prescriber" means any person authorized to order or
34 prescribe legend drugs or schedule II, III, IV, or V controlled
35 substances to the ultimate user.

36 (6) "Requestor" means any person or entity requesting, accessing,
37 or receiving information from the prescription monitoring program
38 under RCW 70.225.040 (3), (4), or (5).

1 **Sec. 20.** RCW 70.225.020 and 2013 c 36 s 2 and 2013 C 19 S 126
2 are each reenacted and amended to read as follows:

3 (1) The department shall establish and maintain a prescription
4 monitoring program to monitor the prescribing and dispensing of all
5 Schedules II, III, IV, and V controlled substances and any additional
6 drugs identified by the pharmacy quality assurance commission as
7 demonstrating a potential for abuse by all professionals licensed to
8 prescribe or dispense such substances in this state. The program
9 shall be designed to improve health care quality and effectiveness by
10 reducing abuse of controlled substances, reducing duplicative
11 prescribing and overprescribing of controlled substances, and
12 improving controlled substance prescribing practices with the intent
13 of eventually establishing an electronic database available in real
14 time to dispensers and prescribers of controlled substances. As much
15 as possible, the department should establish a common database with
16 other states. This program's management and operations shall be
17 funded entirely from the funds in the account established under RCW
18 74.09.215. Nothing in this chapter prohibits voluntary contributions
19 from private individuals and business entities as defined under Title
20 23, 23B, 24, or 25 RCW to assist in funding the prescription
21 monitoring program.

22 (2) Except as provided in subsection (4) of this section, each
23 dispenser shall submit to the department by electronic means
24 information regarding each prescription dispensed for a drug included
25 under subsection (1) of this section. Drug prescriptions for more
26 than one day use should be reported. The information submitted for
27 each prescription shall include, but not be limited to:

- 28 (a) Patient identifier;
- 29 (b) Drug dispensed;
- 30 (c) Date of dispensing;
- 31 (d) Quantity dispensed;
- 32 (e) Prescriber; and
- 33 (f) Dispenser.

34 (3) Each dispenser shall submit the information in accordance
35 with transmission methods established by the department, not later
36 than one business day from the date of dispensing or at the interval
37 required by the department in rule, whichever is sooner.

38 (4) The data submission requirements of subsections (1) through
39 (3) of this section do not apply to:

1 (a) Medications provided to patients receiving inpatient services
2 provided at hospitals licensed under chapter 70.41 RCW; or patients
3 of such hospitals receiving services at the clinics, day surgery
4 areas, or other settings within the hospital's license where the
5 medications are administered in single doses;

6 (b) Pharmacies operated by the department of corrections for the
7 purpose of providing medications to offenders in department of
8 corrections institutions who are receiving pharmaceutical services
9 from a department of corrections pharmacy, except that the department
10 of corrections must submit data related to each offender's current
11 prescriptions for controlled substances upon the offender's release
12 from a department of corrections institution; or

13 (c) Veterinarians licensed under chapter 18.92 RCW. The
14 department, in collaboration with the veterinary board of governors,
15 shall establish alternative data reporting requirements for
16 veterinarians that allow veterinarians to report:

17 (i) By either electronic or nonelectronic methods;

18 (ii) Only those data elements that are relevant to veterinary
19 practices and necessary to accomplish the public protection goals of
20 this chapter; and

21 (iii) No more frequently than once every three months and no less
22 frequently than once every six months.

23 (5) The department shall continue to seek federal grants to
24 support the activities described in chapter 259, Laws of 2007. The
25 department may not require a practitioner or a pharmacist to pay a
26 fee or tax specifically dedicated to the operation and management of
27 the system.

28 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.225
29 RCW to read as follows:

30 (1) In order to expand integration of prescription monitoring
31 program data into certified electronic health record technologies,
32 the department must collaborate with health professional and facility
33 associations, vendors, and others to:

34 (a) Conduct an assessment of the current status of integration;

35 (b) Study best practices regarding data sharing with other
36 states, including: Security standards; challenges with connectivity
37 and prescription monitoring program integration; challenges with
38 electronic health records using the state health information

1 exchange; and a review of other states' data-sharing models for
2 communicating state prescription data to providers;

3 (c) Provide a detailed overview of alternatives to prescription
4 monitoring program integration with electronic health records in
5 addition to the state health information exchange model;

6 (d) Provide recommendations for improving integration among small
7 and rural health care facilities, offices, and clinics;

8 (e) Explore financial assistance options for achieving widespread
9 adoption of platform integration, including any available federal
10 grant funding, to encourage adoption across the state, especially
11 considering the needs of small and rural health care facilities,
12 provider offices, and clinics;

13 (f) Conduct security assessments of other commonly used platforms
14 for integrating prescription monitoring program data with certified
15 electronic health records for possible use in Washington;

16 (g) Assess improvements to the prescription monitoring program to
17 establish a modality to identify patients that do not wish to receive
18 opioid medications in a manner that allows an ordering or prescribing
19 provider to be able to use the prescription monitoring program to
20 identify patients who do not wish to receive opioids or patients that
21 have had an opioid-related overdose;

22 (h) Provide recommendations for increasing the accessibility of
23 the stand-alone prescription monitoring program portal;

24 (i) Formulate a comprehensive strategy to facilitate integration
25 of the prescription monitoring program with electronic health records
26 in this state in advance of the federally mandated medicaid SUPPORT
27 act requirements to check the prescription monitoring program before
28 prescribing controlled substances.

29 (2) Results of the collaboration required by this section must be
30 included in the annual report to the legislature required by RCW
31 70.225.045.

32 **Sec. 22.** RCW 70.225.040 and 2017 c 297 s 9 are each amended to
33 read as follows:

34 (1) ~~((Prescription))~~ All information submitted to the
35 ~~((department—must—be))~~ prescription monitoring program is
36 confidential, ((in compliance with chapter 70.02 RCW and)) exempt
37 from public inspection, copying, and disclosure under chapter 42.56
38 RCW, not subject to subpoena or discovery in any civil action, and
39 protected under federal health care information privacy requirements

1 (~~and not subject to disclosure~~), except as provided in subsections
2 (3) (~~, (4), and (5)~~) through (6) of this section. Such
3 confidentiality and exemption from disclosure continues whenever
4 information from the prescription monitoring program is provided to a
5 requestor under subsection (3), (4), (5), or (6) of this section
6 except when used in proceedings specifically authorized in subsection
7 (3), (4), or (5) of this section.

8 (2) The department must maintain procedures to ensure that the
9 privacy and confidentiality of (~~patients and patient~~) all
10 information collected, recorded, transmitted, and maintained
11 including, but not limited to, the prescriber, requestor, dispenser,
12 patient, and persons who received prescriptions from dispensers, is
13 not disclosed to persons except as in subsections (3) (~~, (4), and~~
14 ~~(5)~~) through (6) of this section.

15 (3) The department may provide data in the prescription
16 monitoring program to the following persons:

17 (a) Persons authorized to prescribe or dispense controlled
18 substances or legend drugs, for the purpose of providing medical or
19 pharmaceutical care for their patients;

20 (b) An individual who requests the individual's own prescription
21 monitoring information;

22 (c) A health professional licensing, certification, or regulatory
23 agency or entity in this or another jurisdiction. Consistent with
24 current practice, the data provided may be used in legal proceedings
25 concerning the license;

26 (d) Appropriate law enforcement or prosecutorial officials,
27 including local, state, and federal officials and officials of
28 federally recognized tribes, who are engaged in a bona fide specific
29 investigation involving a designated person;

30 (e) (~~Authorized practitioners of the department of social and~~
31 ~~health services and the health care authority regarding medicaid~~
32 ~~program recipients;~~

33 ~~(f)~~) The director or the director's designee within the health
34 care authority regarding medicaid (clients for the purposes of
35 quality improvement, patient safety, and care coordination. The
36 information may not be used for contracting or value-based purchasing
37 decisions)) recipients and members of the health care authority self-
38 funded or self-insured health plans;

1 ~~((g))~~ (f) The director or director's designee within the
2 department of labor and industries regarding workers' compensation
3 claimants;

4 ~~((h))~~ (g) The director or the director's designee within the
5 department of corrections regarding offenders committed to the
6 department of corrections;

7 ~~((i))~~ (h) Other entities under grand jury subpoena or court
8 order;

9 ~~((j))~~ (i) Personnel of the department for purposes of:

10 (i) Assessing prescribing and treatment practices ~~(, including~~
11 ~~controlled substances related to mortality and morbidity))~~ and
12 morbidity and mortality related to use of controlled substances and
13 developing and implementing initiatives to protect the public health
14 including, but not limited to, initiatives to address opioid use
15 disorder;

16 (ii) Providing quality improvement feedback to ~~((providers))~~
17 prescribers, including comparison of their respective data to
18 aggregate data for ~~((providers))~~ prescribers with the same type of
19 license and same specialty; and

20 (iii) Administration and enforcement of this chapter or chapter
21 69.50 RCW;

22 ~~((k))~~ (j) Personnel of a test site that meet the standards
23 under RCW 70.225.070 pursuant to an agreement between the test site
24 and a person identified in (a) of this subsection to provide
25 assistance in determining which medications are being used by an
26 identified patient who is under the care of that person;

27 ~~((l))~~ (k) A health care facility or entity for the purpose of
28 providing medical or pharmaceutical care to the patients of the
29 facility or entity, or for quality improvement purposes if ~~((~~

30 ~~+~~
31 (i)) the facility or entity is licensed by the department or is
32 licensed or certified under chapter 71.24, 71.34, or 71.05 RCW or is
33 an entity deemed for purposes of chapter 71.24 RCW to meet state
34 minimum standards as a result of accreditation by a recognized
35 behavioral health accrediting body, or is operated by the federal
36 government or a federally recognized Indian tribe; ~~((and~~

37 ~~(ii) The facility or entity is a trading partner with the state's~~
38 ~~health information exchange;~~

39 ~~((m))~~ (l) A health care provider group of five or more
~~((providers))~~ prescribers or dispensers for purposes of providing

1 medical or pharmaceutical care to the patients of the provider group,
2 or for quality improvement purposes if(~~(+~~

3 ~~(i))~~) all the ((providers)) prescribers or dispensers in the
4 provider group are licensed by the department or the provider group
5 is operated by the federal government or a federally recognized
6 Indian tribe; (~~and~~

7 ~~(ii) The provider group is a trading partner with the state's~~
8 ~~health information exchange;~~

9 ~~(n))~~) (m) The local health officer of a local health jurisdiction
10 for the purposes of patient follow-up and care coordination following
11 a controlled substance overdose event. For the purposes of this
12 subsection "local health officer" has the same meaning as in RCW
13 70.05.010; and

14 (~~(o))~~) (n) The coordinated care electronic tracking program
15 developed in response to section 213, chapter 7, Laws of 2012 2nd sp.
16 sess., commonly referred to as the seven best practices in emergency
17 medicine, for the purposes of providing:

18 (i) Prescription monitoring program data to emergency department
19 personnel when the patient registers in the emergency department; and

20 (ii) Notice to local health officers who have made opioid-related
21 overdose a notifiable condition under RCW 70.05.070 as authorized by
22 rules adopted under RCW 43.20.050, providers, appropriate care
23 coordination staff, and prescribers listed in the patient's
24 prescription monitoring program record that the patient has
25 experienced a controlled substance overdose event. The department
26 shall determine the content and format of the notice in consultation
27 with the Washington state hospital association, Washington state
28 medical association, and Washington state health care authority, and
29 the notice may be modified as necessary to reflect current needs and
30 best practices.

31 (4) The department shall, on at least a quarterly basis, and
32 pursuant to a schedule determined by the department, provide a
33 facility or entity identified under subsection (3)(~~(l))~~) (k) of this
34 section or a provider group identified under subsection (3)(~~(m))~~)
35 (l) of this section with facility or entity and individual prescriber
36 information if the facility, entity, or provider group:

37 (a) Uses the information only for internal quality improvement
38 and individual prescriber quality improvement feedback purposes and
39 does not use the information as the sole basis for any medical staff
40 sanction or adverse employment action; and

1 (b) Provides to the department a standardized list of current
2 prescribers of the facility, entity, or provider group. The specific
3 facility, entity, or provider group information provided pursuant to
4 this subsection and the requirements under this subsection must be
5 determined by the department in consultation with the Washington
6 state hospital association, Washington state medical association, and
7 Washington state health care authority, and may be modified as
8 necessary to reflect current needs and best practices.

9 (5) (a) The department may publish or provide data to public or
10 private entities for statistical, research, or educational purposes
11 after removing information that could be used directly or indirectly
12 to identify individual patients, requestors, dispensers, prescribers,
13 and persons who received prescriptions from dispensers. Direct and
14 indirect patient identifiers may be provided for research that has
15 been approved by the Washington state institutional review board and
16 by the department through a data-sharing agreement.

17 (b) (i) The department may provide dispenser and prescriber data
18 and data that includes indirect patient identifiers to the Washington
19 state hospital association for use solely in connection with its
20 coordinated quality improvement program maintained under RCW
21 43.70.510 after entering into a data use agreement as specified in
22 RCW 43.70.052(8) with the association. The department may provide
23 dispenser and prescriber data and data that includes indirect patient
24 identifiers to the Washington state medical association for use
25 solely in connection with its coordinated quality improvement program
26 maintained under RCW 43.70.510 after entering into a data use
27 agreement with the association.

28 (ii) The department may provide data including direct and
29 indirect patient identifiers to the department of social and health
30 services office of research and data analysis, the department of
31 labor and industries, and the health care authority for research that
32 has been approved by the Washington state institutional review board
33 and, with a data-sharing agreement approved by the department, for
34 public health purposes to improve the prevention or treatment of
35 substance use disorders.

36 (iii) The department may provide a prescriber feedback report to
37 the largest health professional association representing each of the
38 prescribing professions. The health professional associations must
39 distribute the feedback report to prescribers engaged in the
40 professions represented by the associations for quality improvement

1 purposes, so long as the reports contain no direct patient
2 identifiers that could be used to identify individual patients,
3 dispensers, and persons who received prescriptions from dispensers,
4 and the association enters into a written data-sharing agreement with
5 the department. However, reports may include indirect patient
6 identifiers as agreed to by the department and the association in a
7 written data-sharing agreement.

8 (c) For the purposes of this subsection((7)):

9 (i) "Indirect patient identifiers" means data that may include:
10 Hospital or provider identifiers, a five-digit zip code, county,
11 state, and country of resident; dates that include month and year;
12 age in years; and race and ethnicity; but does not include the
13 patient's first name; middle name; last name; social security number;
14 control or medical record number; zip code plus four digits; dates
15 that include day, month, and year; or admission and discharge date in
16 combination; and

17 (ii) "Prescribing professions" include:

18 (A) Allopathic physicians;

19 (B) Osteopathic physicians;

20 (C) Podiatric physicians;

21 (D) Dentists; and

22 (E) Advanced registered nurse practitioners.

23 (6) The department may enter into agreements to exchange
24 prescription monitoring program data with established prescription
25 monitoring programs in other jurisdictions. Under these agreements,
26 the department may share prescription monitoring system data
27 containing direct and indirect patient identifiers with other
28 jurisdictions through a clearinghouse or prescription monitoring
29 program data exchange that meets federal health care information
30 privacy requirements. Data the department receives from other
31 jurisdictions must be retained, used, protected, and destroyed as
32 provided by the agreements to the extent consistent with the laws in
33 this state.

34 (7) Persons authorized in subsections (3)((~~4~~), and (~~5~~))
35 through (6) of this section to receive data in the prescription
36 monitoring program from the department, acting in good faith, are
37 immune from any civil, criminal, disciplinary, or administrative
38 liability that might otherwise be incurred or imposed for acting
39 under this chapter.

1 **Sec. 23.** RCW 71.24.011 and 1982 c 204 s 1 are each amended to
2 read as follows:

3 This chapter may be known and cited as the community ~~((mental))~~
4 behavioral health services act.

5 NEW SECTION. **Sec. 24.** A new section is added to chapter 71.24
6 RCW to read as follows:

7 (1) Recognizing that treatment strategies and modalities for the
8 treatment of individuals with opioid use disorder and their newborns
9 continue to evolve, and that improved health outcomes are seen when
10 birth parents and their infants are allowed to room together, the
11 authority must provide recommendations to the office of financial
12 management by October 1, 2019, to better support the care of
13 individuals who have recently delivered and their newborns.

14 (2) These recommendations must support:

15 (a) Successful transition from the early postpartum and newborn
16 period for the birth parent and infant to the next level of care;

17 (b) Reducing the risk of parental infant separation; and

18 (c) Increasing the chance of uninterrupted recovery of the parent
19 and foster the development of positive parenting practices.

20 (3) The authority's recommendations must include:

21 (a) How these interventions could be supported in hospitals,
22 birthing centers, or other appropriate sites of care and descriptions
23 as to current barriers in providing these interventions;

24 (b) Estimates of the costs needed to support this enhanced set of
25 services; and

26 (c) Mechanisms for funding the services.

27 **Sec. 25.** RCW 71.24.560 and 2017 c 297 s 11 are each amended to
28 read as follows:

29 (1) All approved opioid treatment programs that provide services
30 to ~~((women))~~ individuals who are pregnant are required to disseminate
31 up-to-date and accurate health education information to all their
32 pregnant ~~((clients))~~ individuals concerning the ~~((possible addiction
33 and health risks that their treatment may have on their baby))~~
34 effects opioid use and opioid use disorder medication may have on
35 their baby, including the development of dependence and subsequent
36 withdrawal. All pregnant ~~((clients))~~ individuals must also be advised
37 of the risks to both themselves and their ~~((baby))~~ babies associated
38 with ~~((not remaining on the))~~ discontinuing an opioid treatment

1 program. The information must be provided to these ((clients))
2 individuals both verbally and in writing. The health education
3 information provided to the pregnant ((clients)) individuals must
4 include referral options for ((the substance-exposed baby)) a baby
5 who has been exposed to opioids in utero.

6 (2) The department shall adopt rules that require all opioid
7 treatment programs to educate all pregnant ((women)) individuals in
8 their program on the benefits and risks of medication-assisted
9 treatment to ((their)) a developing fetus before they are
10 ((provided)) prescribed these medications, as part of their
11 treatment. The department shall also adopt rules requiring all opioid
12 treatment programs to educate individuals who become pregnant about
13 the risks to both the expecting parent and the fetus of not treating
14 opioid use disorder. The department shall meet the requirements under
15 this subsection within the appropriations provided for opioid
16 treatment programs. The department, working with treatment providers
17 and medical experts, shall develop and disseminate the educational
18 materials to all certified opioid treatment programs.

19 (3) For pregnant individuals who participate in medicaid, the
20 authority, through its managed care organizations, must ensure that
21 pregnant individuals receive outreach related to opioid use disorder
22 when identified as a person at risk.

23 **Sec. 26.** RCW 71.24.580 and 2018 c 205 s 2 and 2018 c 201 s 4044
24 are each reenacted and amended to read as follows:

25 (1) The criminal justice treatment account is created in the
26 state treasury. Moneys in the account may be expended solely for: (a)
27 Substance use disorder treatment and treatment support services for
28 offenders with a substance use disorder that, if not treated, would
29 result in addiction, against whom charges are filed by a prosecuting
30 attorney in Washington state; (b) the provision of substance use
31 disorder treatment services and treatment support services for
32 nonviolent offenders within a drug court program; and (c) the
33 administrative and overhead costs associated with the operation of a
34 drug court. Amounts provided in this subsection must be used for
35 treatment and recovery support services for criminally involved
36 offenders and authorization of these services shall not be subject to
37 determinations of medical necessity. During the 2017-2019 fiscal
38 biennium, the legislature may direct the state treasurer to make
39 transfers of moneys in the criminal justice treatment account to the

1 state general fund. It is the intent of the legislature to continue
2 in the 2019-2021 biennium the policy of transferring to the state
3 general fund such amounts as reflect the excess fund balance of the
4 account. Moneys in the account may be spent only after appropriation.

5 (2) For purposes of this section:

6 (a) "Treatment" means services that are critical to a
7 participant's successful completion of his or her substance use
8 disorder treatment program, including but not limited to the recovery
9 support and other programmatic elements outlined in RCW 2.30.030
10 authorizing therapeutic courts; and

11 (b) "Treatment support" includes transportation to or from
12 inpatient or outpatient treatment services when no viable alternative
13 exists, and child care services that are necessary to ensure a
14 participant's ability to attend outpatient treatment sessions.

15 (3) Revenues to the criminal justice treatment account consist
16 of: (a) Funds transferred to the account pursuant to this section;
17 and (b) any other revenues appropriated to or deposited in the
18 account.

19 (4)(a) For the fiscal year beginning July 1, 2005, and each
20 subsequent fiscal year, the state treasurer shall transfer eight
21 million two hundred fifty thousand dollars from the general fund to
22 the criminal justice treatment account, divided into four equal
23 quarterly payments. For the fiscal year beginning July 1, 2006, and
24 each subsequent fiscal year, the amount transferred shall be
25 increased on an annual basis by the implicit price deflator as
26 published by the federal bureau of labor statistics.

27 (b) In each odd-numbered year, the legislature shall appropriate
28 the amount transferred to the criminal justice treatment account in
29 (a) of this subsection to the department for the purposes of
30 subsection (5) of this section.

31 (5) Moneys appropriated to the authority from the criminal
32 justice treatment account shall be distributed as specified in this
33 subsection. The authority may retain up to three percent of the
34 amount appropriated under subsection (4)(b) of this section for its
35 administrative costs.

36 (a) Seventy percent of amounts appropriated to the authority from
37 the account shall be distributed to counties pursuant to the
38 distribution formula adopted under this section. The authority, in
39 consultation with the department of corrections, the Washington state
40 association of counties, the Washington state association of drug

1 court professionals, the superior court judges' association, the
2 Washington association of prosecuting attorneys, representatives of
3 the criminal defense bar, representatives of substance use disorder
4 treatment providers, and any other person deemed by the authority to
5 be necessary, shall establish a fair and reasonable methodology for
6 distribution to counties of moneys in the criminal justice treatment
7 account. County or regional plans submitted for the expenditure of
8 formula funds must be approved by the panel established in (b) of
9 this subsection.

10 (b) Thirty percent of the amounts appropriated to the authority
11 from the account shall be distributed as grants for purposes of
12 treating offenders against whom charges are filed by a county
13 prosecuting attorney. The authority shall appoint a panel of
14 representatives from the Washington association of prosecuting
15 attorneys, the Washington association of sheriffs and police chiefs,
16 the superior court judges' association, the Washington state
17 association of counties, the Washington defender's association or the
18 Washington association of criminal defense lawyers, the department of
19 corrections, the Washington state association of drug court
20 professionals, and substance use disorder treatment providers. The
21 panel shall review county or regional plans for funding under (a) of
22 this subsection and grants approved under this subsection. The panel
23 shall attempt to ensure that treatment as funded by the grants is
24 available to offenders statewide.

25 (6) The county alcohol and drug coordinator, county prosecutor,
26 county sheriff, county superior court, a substance abuse treatment
27 provider appointed by the county legislative authority, a member of
28 the criminal defense bar appointed by the county legislative
29 authority, and, in counties with a drug court, a representative of
30 the drug court shall jointly submit a plan, approved by the county
31 legislative authority or authorities, to the panel established in
32 subsection (5)(b) of this section, for disposition of all the funds
33 provided from the criminal justice treatment account within that
34 county. The submitted plan should incorporate current evidence-based
35 practices in substance use disorder treatment. The funds shall be
36 used solely to provide approved alcohol and substance ((abuse)) use
37 disorder treatment pursuant to RCW 71.24.560 and treatment support
38 services. No more than ten percent of the total moneys received under
39 subsections (4) and (5) of this section by a county or group of

1 counties participating in a regional agreement shall be spent for
2 treatment support services.

3 (7) Counties are encouraged to consider regional agreements and
4 submit regional plans for the efficient delivery of treatment under
5 this section.

6 (8) Moneys allocated under this section shall be used to
7 supplement, not supplant, other federal, state, and local funds used
8 for substance abuse treatment.

9 (9) If a region or county uses criminal justice treatment account
10 funds to support a therapeutic court, the therapeutic court must
11 allow the use of all medications approved by the federal food and
12 drug administration for the treatment of opioid use disorder as
13 deemed medically appropriate for a participant by a medical
14 professional. If appropriate medication-assisted treatment resources
15 are not available or accessible within the jurisdiction, the health
16 care authority's designee for assistance must assist the court with
17 acquiring the resource.

18 (10) Counties must meet the criteria established in RCW
19 2.30.030(3).

20 **Sec. 27.** RCW 71.24.585 and 2017 c 297 s 12 are each amended to
21 read as follows:

22 ~~((The state of Washington declares that there is no fundamental
23 right to medication-assisted treatment for opioid use disorder.))~~

24 (1)(a) The state of Washington ((further)) declares that ((while
25 medications used in the treatment of opioid use disorder are
26 addictive substances, that they nevertheless have several legal,
27 important, and justified uses and that one of their appropriate and
28 legal uses is, in conjunction with other required therapeutic
29 procedures, in the treatment of persons with opioid use disorder. The
30 state of Washington recognizes as evidence-based for the management
31 of opioid use disorder the medications approved by the federal food
32 and drug administration for the treatment of opioid use disorder.
33 Medication-assisted treatment should only be used for participants
34 who are deemed appropriate to need this level of intervention.
35 Providers must inform patients of all treatment options available.
36 The provider and the patient shall consider alternative treatment
37 options, like abstinence, when developing the treatment plan. If
38 medications are prescribed, follow up must be included in the
39 treatment plan in order to work towards the goal of abstinence.))

1 substance use disorders are medical conditions. Substance use
2 disorders should be treated in a manner similar to other medical
3 conditions by using interventions that are supported by evidence.
4 There is a large body of evidence that medications approved by the
5 federal food and drug administration for the treatment of opioid use
6 disorder are highly effective for reducing deaths from opioid
7 overdose and increasing medical outcomes in treatment. It is also
8 recognized that many individuals have multiple substance use
9 disorders, as well as histories of trauma or other mental health
10 conditions. As such, all individuals experiencing opioid use disorder
11 should be offered evidence-supported treatments to include federal
12 food and drug administration approved medications for the treatment
13 of opioid use disorders and behavioral counseling and social supports
14 to address them. For behavioral health agencies, an effective plan of
15 treatment for most persons with opioid use disorder integrates access
16 to medications and psychosocial counseling and should be consistent
17 with the American society of addiction medicine patient placement
18 criteria. Through a strong collaborative care approach, involving the
19 team of providers, the person with opioid use disorder must be
20 provided with a well-coordinated plan of interventions based on
21 evidence while preserving the patient voice in treatment. Providers
22 must inform patients with opioid use disorder of options to access
23 federal food and drug administration approved medications for the
24 treatment of opioid use disorder. Because some such medications are
25 controlled substances in chapter 69.50 RCW, the state of Washington
26 maintains the legal obligation and right to regulate the ((clinical))
27 uses of these medications in the treatment of opioid use disorder.

28 ((Further,)) (b) Given the state of Washington recognizes
29 substance use disorders as chronic medical conditions, the authority
30 must work with other state agencies and stakeholders to develop
31 value-based payment strategies to better support the ongoing care of
32 persons with opioid and other substance use disorders.

33 (2) The authority must promote the use of medication therapies
34 and other evidence-based strategies to address the opioid epidemic in
35 Washington state. Additionally, by January 1, 2020, the authority
36 must prioritize state resources for the provision of treatment and
37 recovery support services to inpatient and outpatient treatment
38 settings that allow patients to start or maintain their use of
39 medications for opioid use disorder while engaging in services.

1 (3) The state declares that the main goals of (opioid
2 substitution treatment is total abstinence from substance use for the
3 individuals who participate in the treatment program, but recognizes
4 the additional goals of reduced morbidity, and restoration of the
5 ability to lead a productive and fulfilling life. The state
6 recognizes that a small percentage of persons who participate in
7 opioid treatment programs require treatment for an extended period of
8 time. Opioid treatment programs shall provide a comprehensive
9 transition program to eliminate substance use, including opioid use
10 of program participants)) treatment for persons with opioid use
11 disorder are the cessation of unprescribed opioid use, reduced
12 morbidity, and restoration of the ability to lead a productive and
13 fulfilling life.

14 (4) To achieve the goals in subsection (3) of this section, to
15 promote public health and safety, and to promote the efficient and
16 economic use of funding for the medicaid program under Title XIX of
17 the social security act, the authority may seek, receive, and expend
18 alternative sources of funding to support all aspects of the state's
19 response to the opioid crisis.

20 (5) The authority must partner with the department of social and
21 health services, the department of corrections, the department of
22 health, the department of children, youth, and families, and any
23 other agencies or entities the authority deems appropriate to develop
24 a statewide approach to leveraging medicaid funding to treat opioid
25 use disorder and provide emergency overdose treatment. Such
26 alternative sources of funding may include, but are not limited to:

27 (a) Seeking a section 1115 demonstration waiver from the federal
28 centers for medicare and medicaid services to fund opioid treatment
29 medications for persons eligible for medicaid at or during the time
30 of incarceration and juvenile detention facilities. The authority's
31 application for any such waiver must comply with all applicable
32 federal requirements for obtaining such waiver; and

33 (b) Soliciting and receiving private funds, grants, and donations
34 from any willing person or entity.

35 (6) (a) The authority shall replicate effective approaches such as
36 opioid hub and spoke treatment networks to broaden outreach and
37 patient navigation with allied opioid use disorder community
38 partners, including but not limited to: Federally accredited opioid
39 treatment programs, substance use disorder treatment facilities,

1 jails, syringe exchange programs, community mental health centers,
2 and primary care clinics.

3 (b) To carry out this subsection (6), the authority shall work
4 with the department of health to promote coordination between
5 medication-assisted treatment prescribers, federally accredited
6 opioid treatment programs, substance use disorder treatment
7 facilities, and state-certified substance use disorder treatment
8 agencies to:

9 (i) Increase patient choice in receiving medication and
10 counseling;

11 (ii) Strengthen relationships between opioid use disorder
12 providers;

13 (iii) Acknowledge and address the challenges presented for
14 individuals needing treatment for multiple substance use disorders
15 simultaneously; and

16 (iv) Study and review effective methods to identify and reach out
17 to individuals with opioid use disorder who are at high risk of
18 overdose and not involved in traditional systems of care, such as
19 homeless individuals using syringe service programs, and connect such
20 individuals to appropriate treatment.

21 (c) Given the unique role opioid treatment programs serve in the
22 continuum of care for persons with opioid use disorders, the
23 authority must work with stakeholders to develop a set of
24 recommendations to the governor and the legislature that:

25 (i) Propose, in addition to those required by federal law, a
26 standard set of services needed to support the complex treatment
27 needs of persons with opioid use disorder treated in opioid treatment
28 programs;

29 (ii) Outline the components of and strategies needed to develop
30 opioid treatment program centers of excellence that provide fully
31 integrated care for persons with opioid use disorder; and

32 (iii) Estimate the costs needed to support these models and
33 recommendations for funding strategies that must be included in the
34 report.

35 (7) State agencies shall review and promote positive outcomes
36 associated with the accountable communities of health funded opioid
37 projects and local law enforcement and human services opioid
38 collaborations as set forth in the Washington state interagency
39 opioid working plan.

1 (8) The authority must partner with the department and other
2 state agencies to replicate effective approaches for linking
3 individuals who have had a nonfatal overdose with treatment
4 opportunities, with a goal to connect certified peer counselors with
5 individuals who have had a nonfatal overdose.

6 (9) To achieve the goals of subsection (3) of this section, state
7 agencies must work together to increase outreach and education about
8 opioid overdoses to non-English-speaking communities by developing a
9 plan to conduct outreach and education to non-English-speaking
10 communities. The department must submit a report on the outreach and
11 education plan with recommendations for implementation to the
12 appropriate legislative committees by July 1, 2020.

13 NEW SECTION. Sec. 28. A new section is added to chapter 71.24
14 RCW to read as follows:

15 (1) Subject to funds appropriated by the legislature, the
16 authority shall implement a pilot project for law enforcement
17 assisted diversion which shall adhere to law enforcement assisted
18 diversion core principles recognized by the law enforcement assisted
19 diversion national support bureau, the efficacy of which have been
20 demonstrated in peer-reviewed research studies.

21 (2) Under the pilot project, the authority must partner with the
22 law enforcement assisted diversion national support bureau to award a
23 contract, subject to appropriation, for two or more geographic areas
24 in the state of Washington for law enforcement assisted diversion.
25 Cities, counties, and tribes may compete for participation in a pilot
26 project.

27 (3) The pilot projects must provide for comprehensive technical
28 assistance from law enforcement assisted diversion implementation
29 experts to develop and implement a law enforcement assisted diversion
30 program in the pilot project's geographic areas in a way that ensures
31 fidelity to the research-based law enforcement assisted diversion
32 model.

33 (4) The key elements of a law enforcement assisted diversion
34 pilot project must include:

35 (a) Long-term case management for individuals with substance use
36 disorders;

37 (b) Facilitation and coordination with community resources
38 focusing on overdose prevention;

- 1 (c) Facilitation and coordination with community resources
2 focused on the prevention of infectious disease transmission;
- 3 (d) Facilitation and coordination with community resources
4 providing physical and behavioral health services;
- 5 (e) Facilitation and coordination with community resources
6 providing medications for the treatment of substance use disorders;
- 7 (f) Facilitation and coordination with community resources
8 focusing on housing, employment, and public assistance;
- 9 (g) Twenty-four hours per day and seven days per week response to
10 law enforcement for arrest diversions; and
- 11 (h) Prosecutorial support for diversion services.

12 **Sec. 29.** RCW 71.24.590 and 2018 c 201 s 4045 are each amended to
13 read as follows:

14 (1) When making a decision on an application for licensing or
15 certification of a program, the department shall:

16 (a) Consult with the county legislative authorities in the area
17 in which an applicant proposes to locate a program and the city
18 legislative authority in any city in which an applicant proposes to
19 locate a program;

20 (b) License or certify only programs that will be sited in
21 accordance with the appropriate county or city land use ordinances.
22 Counties and cities may require conditional use permits with
23 reasonable conditions for the siting of programs. Pursuant to RCW
24 36.70A.200, no local comprehensive plan or development regulation may
25 preclude the siting of essential public facilities;

26 (c) Not discriminate in its licensing or certification decision
27 on the basis of the corporate structure of the applicant;

28 (d) Consider the size of the population in need of treatment in
29 the area in which the program would be located and license or certify
30 only applicants whose programs meet the necessary treatment needs of
31 that population;

32 (e) Consider the availability of other certified opioid treatment
33 programs near the area in which the applicant proposes to locate the
34 program;

35 (f) Consider the transportation systems that would provide
36 service to the program and whether the systems will provide
37 reasonable opportunities to access the program for persons in need of
38 treatment;

1 (g) Consider whether the applicant has, or has demonstrated in
2 the past, the capability to provide the appropriate services to
3 assist the persons who utilize the program in meeting goals
4 established by the legislature in RCW 71.24.585. The department shall
5 prioritize licensing or certification to applicants who have
6 demonstrated such capability and are able to measure their success in
7 meeting such outcomes;

8 (h) Hold one public hearing in the community in which the
9 facility is proposed to be located. The hearing shall be held at a
10 time and location that are most likely to permit the largest number
11 of interested persons to attend and present testimony. The department
12 shall notify all appropriate media outlets of the time, date, and
13 location of the hearing at least three weeks in advance of the
14 hearing.

15 (2) A county may impose a maximum capacity for a program of not
16 less than three hundred fifty participants if necessary to address
17 specific local conditions cited by the county.

18 (3) A program applying for licensing or certification from the
19 department and a program applying for a contract from a state agency
20 that has been denied the licensing or certification or contract shall
21 be provided with a written notice specifying the rationale and
22 reasons for the denial.

23 (4) Opioid treatment programs may order, possess, dispense, and
24 administer medications approved by the United States food and drug
25 administration for the treatment of opioid use disorder, alcohol use
26 disorder, tobacco use disorder, and reversal of opioid overdose. For
27 an opioid treatment program to order, possess, and dispense any other
28 legend drug, including controlled substances, the opioid treatment
29 program must obtain additional licensure as required by the
30 department, except for patient-owned medications.

31 (5) Opioid treatment programs may accept, possess, and administer
32 patient-owned medications.

33 (6) Registered nurses and licensed practical nurses may dispense
34 up to a thirty-one day supply of medications approved by the United
35 States food and drug administration for the treatment of opioid use
36 disorder to patients of the opioid treatment program, under an order
37 or prescription and in compliance with 42 C.F.R. Sec. 8.12.

38 (7) For the purpose of this chapter, "opioid treatment program"
39 means a program that:

1 (a) (~~Dispensing a~~) Engages in the treatment of opioid use
2 disorder with medications approved by the (~~federal~~) United States
3 food and drug administration for the treatment of opioid use disorder
4 and (~~dispensing medication for the~~) reversal of opioid overdose;
5 and

6 (b) (~~Providing~~) Provides a comprehensive range of medical and
7 rehabilitative services.

8 **Sec. 30.** RCW 71.24.595 and 2018 c 201 s 4046 are each amended to
9 read as follows:

10 (1) To achieve more medication options, the authority must work
11 with the department and the authority's medicaid managed care
12 organizations, to eliminate barriers and promote access to effective
13 medications known to address opioid use disorders at state-certified
14 opioid treatment programs. Medications include, but are not limited
15 to: Methadone, buprenorphine, and naltrexone. The authority must
16 encourage the distribution of naloxone to patients who are at risk of
17 an opioid overdose.

18 (2) The department, in consultation with opioid treatment program
19 service providers and counties and cities, shall establish statewide
20 treatment standards for licensed or certified opioid treatment
21 programs. The department shall enforce these treatment standards. The
22 treatment standards shall include, but not be limited to, reasonable
23 provisions for all appropriate and necessary medical procedures,
24 counseling requirements, urinalysis, and other suitable tests as
25 needed to ensure compliance with this chapter.

26 (~~(2)~~) (3) The department, in consultation with opioid treatment
27 programs and counties, shall establish statewide operating standards
28 for certified opioid treatment programs. The department shall enforce
29 these operating standards. The operating standards shall include, but
30 not be limited to, reasonable provisions necessary to enable the
31 department and counties to monitor certified or licensed opioid
32 treatment programs for compliance with this chapter and the treatment
33 standards authorized by this chapter and to minimize the impact of
34 the opioid treatment programs upon the business and residential
35 neighborhoods in which the program is located.

36 (~~(3)~~) (4) The department shall analyze and evaluate the data
37 submitted by each treatment program and take corrective action where
38 necessary to ensure compliance with the goals and standards
39 enumerated under this chapter. Opioid treatment programs are subject

1 to the oversight required for other substance use disorder treatment
2 programs, as described in this chapter.

3 NEW SECTION. **Sec. 31.** A new section is added to chapter 71.24
4 RCW to read as follows:

5 By October 1, 2019, the authority must work with the department,
6 the accountable communities of health, and community stakeholders to
7 develop a plan for the coordinated purchasing and distribution of
8 opioid overdose reversal medication across the state of Washington.
9 The plan must be developed in consultation with the University of
10 Washington's alcohol and drug abuse institute and community agencies
11 participating in the federal demonstration grant titled Washington
12 state project to prevent prescription drug or opioid overdose.

13 NEW SECTION. **Sec. 32.** A new section is added to chapter 71.24
14 RCW to read as follows:

15 (1) The department, in coordination with the authority, must
16 develop a strategy to rapidly deploy a response team to a local
17 community identified as having a high number of fentanyl-related or
18 other drug overdoses by the local emergency management system,
19 hospital emergency department, local health jurisdiction, law
20 enforcement agency, or surveillance data. The response team must
21 provide technical assistance and other support to the local health
22 jurisdiction, health care clinics, hospital emergency departments,
23 substance use disorder treatment providers, and other community-based
24 organizations, and are expected to increase the local capacity to
25 provide medication-assisted treatment and overdose education.

26 (2) The department and the authority must reduce barriers and
27 promote medication treatment therapies for opioid use disorder in
28 emergency departments and same-day referrals to opioid treatment
29 programs, substance use disorder treatment facilities, and community-
30 based medication treatment prescribers for individuals experiencing
31 an overdose.

32 NEW SECTION. **Sec. 33.** A new section is added to chapter 71.24
33 RCW to read as follows:

34 (1) By January 1, 2021, city and county jails in Washington must
35 adopt requirements for addressing the behavioral health needs of
36 incarcerated individuals with an opioid use disorder, in accordance
37 with chapter 70.48 RCW. These requirements must be adopted, as

1 failure to treat opioid use disorder during incarceration has serious
2 consequences, including an extremely high risk of overdose death
3 after release, and high rates of crime and recidivism correlated with
4 untreated opioid use disorder during incarceration. City and county
5 jail requirements must include developing policies and practices
6 that:

7 (a) Provide medication for the treatment of opioid use disorder
8 to individuals in the custody of the facility, in any status, who
9 were receiving medication for the treatment of opioid use disorder
10 through a legally authorized medical program or by a valid
11 prescription immediately before incarceration;

12 (b) Provide medication for the treatment of opioid use disorder
13 to incarcerated individuals not less than thirty days before release
14 when treatment is determined to be medically appropriate by a health
15 care practitioner; and

16 (c) Make every possible effort to directly connect incarcerated
17 individuals receiving medication for the treatment of opioid use
18 disorder to an appropriate provider or treatment site in the
19 geographic region in which the individual will reside before release.
20 If a connection is not possible, the facility must document its
21 efforts in the individual's record.

22 (2) Washington state recognizes that there are multiple
23 initiatives in place for funding treatment under this section through
24 multiple sources including medicaid funding and waivers, criminal
25 justice treatment account funding, and decision packages.
26 Jurisdictions are encouraged to look towards alternative funding
27 streams to help bridge gaps in resources, while specifically working
28 with local county and city governments to best coordinate already
29 established funding sources for incarcerated individuals.

30 NEW SECTION. **Sec. 34.** A new section is added to chapter 74.09
31 RCW to read as follows:

32 (1) In order to support prevention of potential opioid use
33 disorders, the authority must develop and recommend for coverage
34 nonpharmacologic treatments for acute, subacute, and chronic
35 noncancer pain and must report to the governor and the appropriate
36 committees of the legislature, including any requests for funding
37 necessary to implement the recommendations under this section. The
38 recommendations must contain the following elements:

39 (a) A list of which nonpharmacologic treatments will be covered;

1 (b) Recommendations as to the duration, amount, and type of
2 treatment eligible for coverage;

3 (c) Guidance on the type of providers eligible to provide these
4 treatments; and

5 (d) Recommendations regarding the need to add any provider types
6 to the list of currently eligible medicaid provider types.

7 (2) The authority must ensure only treatments that are evidence-
8 based for the treatment of the specific acute, subacute, and chronic
9 pain conditions will be eligible for coverage recommendations.

--- **END** ---