

1 2071-S.E AAS 4/18/91

2 **ESHB 2071** - S COMM AMD

3 By Committee on Health & Long-Term Care

4 Adopted 4/18/91 - Voice Vote

5 Strike everything after the enacting clause and insert the  
6 following:

7 "**Sec. 1.** RCW 18.72.040 and 1986 c 300 s 2 are each amended to read  
8 as follows:

9 There is hereby created the "Washington state medical disciplinary  
10 board," which shall be composed of one holder of a valid license to  
11 practice medicine and surgery from each congressional district now  
12 existing or hereafter created in the state and (~~three~~) four members  
13 of the public who meet the qualifications contained in RCW 70.39.020(2)  
14 and one nonvoting physician assistant authorized to practice under  
15 chapter 18.71A RCW. The public members and the physician assistant  
16 member shall be appointed by the governor. The physician assistant  
17 member shall vote on matters relating to the disciplining of physician  
18 assistants. The physician assistant and public members' terms shall be  
19 for four years. In order to achieve staggered terms, the public member  
20 serving on the board on June 11, 1986, shall continue to serve until  
21 October 1, 1987. The remaining two public members shall be appointed  
22 to initial terms of three years and four years, respectively.

23 The board shall be an administrative agency of the state of  
24 Washington. The attorney general shall be the advisor of the board and  
25 shall represent it in all legal proceedings."

26 "NEW SECTION. **Sec. 2.** A new section is added to chapter 18.72 RCW  
27 to read as follows:

1 To assist in identifying impairment related to alcohol abuse, the  
2 board may obtain a copy of the driving record of a physician or a  
3 physician assistant maintained by the department of licensing."

4 "Sec. 3. RCW 18.130.180 and 1989 c 270 s 33 are each amended to  
5 read as follows:

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

9 (1) The commission of any act involving moral turpitude,  
10 dishonesty, or corruption relating to the practice of the person's  
11 profession, whether the act constitutes a crime or not. If the act  
12 constitutes a crime, conviction in a criminal proceeding is not a  
13 condition precedent to disciplinary action. Upon such a conviction,  
14 however, the judgment and sentence is conclusive evidence at the  
15 ensuing disciplinary hearing of the guilt of the license holder or  
16 applicant of the crime described in the indictment or information, and  
17 of the person's violation of the statute on which it is based. For the  
18 purposes of this section, conviction includes all instances in which a  
19 plea of guilty or nolo contendere is the basis for the conviction and  
20 all proceedings in which the sentence has been deferred or suspended.  
21 Nothing in this section abrogates rights guaranteed under chapter 9.96A  
22 RCW;

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

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

26 (4) Incompetence, negligence, or malpractice which results in  
27 injury to a patient or which creates an unreasonable risk that a  
28 patient may be harmed;

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

6 (6) The possession, use, prescription for use, or distribution of  
7 controlled substances or legend drugs in any way other than for  
8 legitimate or therapeutic purposes, diversion of controlled substances  
9 or legend drugs, the violation of any drug law, or prescribing  
10 controlled substances for oneself;

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

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

16 (a) Not furnishing any papers or documents;

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

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

23 (9) Failure to comply with an order issued by the disciplining  
24 authority or an assurance of discontinuance entered into with the  
25 disciplining authority;

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

28 (11) Violations of rules established by any health agency;

29 (12) Practice beyond the scope of practice as defined by law or  
30 rule;

1 (13) Misrepresentation or fraud in any aspect of the conduct of the  
2 business or profession;

3 (14) Failure to adequately supervise auxiliary staff to the extent  
4 that the consumer's health or safety is at risk;

5 (15) Engaging in a profession involving contact with the public  
6 while suffering from a contagious or infectious disease involving  
7 serious risk to public health;

8 (16) Promotion for personal gain of any unnecessary or  
9 inefficacious drug, device, treatment, procedure, or service;

10 (17) Conviction of any gross misdemeanor or felony relating to the  
11 practice of the person's profession. For the purposes of this  
12 subsection, conviction includes all instances in which a plea of guilty  
13 or nolo contendere is the basis for conviction and all proceedings in  
14 which the sentence has been deferred or suspended. Nothing in this  
15 section abrogates rights guaranteed under chapter 9.96A RCW;

16 (18) The procuring, or aiding or abetting in procuring, a criminal  
17 abortion;

18 (19) The offering, undertaking, or agreeing to cure or treat  
19 disease by a secret method, procedure, treatment, or medicine, or the  
20 treating, operating, or prescribing for any health condition by a  
21 method, means, or procedure which the licensee refuses to divulge upon  
22 demand of the disciplining authority;

23 (20) The willful betrayal of a practitioner-patient privilege as  
24 recognized by law;

25 (21) Violation of chapter 19.68 RCW;

26 (22) Interference with an investigation or disciplinary proceeding  
27 by willful misrepresentation of facts before the disciplining authority  
28 or its authorized representative, or by the use of threats or  
29 harassment against any patient or witness to prevent them from

1 providing evidence in a disciplinary proceeding or any other legal  
2 action;

3 (23) Current misuse of:

4 (a) Alcohol;

5 (b) Controlled substances; or

6 (c) Legend drugs;

7 (24) Abuse of a client or patient or sexual contact with a client  
8 or patient;

9 (25) Acceptance of more than a nominal gratuity, hospitality, or  
10 subsidy offered by a representative or vendor of medical or health-  
11 related products or services intended for patients, in contemplation of  
12 a sale or for use in research publishable in professional journals,  
13 where a conflict of interest is presented, as defined by rules of the  
14 disciplining authority, in consultation with the department, based on  
15 recognized professional ethical standards."

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19 On page 1, line 1 of the title, after "board;" strike the remainder  
20 of the title and insert "amending RCW 18.72.040 and 18.130.180; and  
21 adding a new section to chapter 18.72 RCW."