
SENATE BILL 6029

State of Washington

52nd Legislature

1992 Regular Session

By Senators West and Johnson

Read first time 01/13/92. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to health care quality assurance; amending RCW
2 7.06.040, 7.06.060, 4.24.260, 18.06.110, 18.19.050, 18.22.005,
3 18.25.019, 18.26.030, 18.26.360, 18.32.195, 18.32.655, 18.35.110,
4 18.35.161, 18.36A.060, 18.52C.040, 18.57.035, 18.64.160, 18.64.310,
5 18.64A.050, 18.71.019, 18.71.095, 18.71.230, 18.74.090, 18.83.050,
6 18.83.121, 18.84.040, 18.89.050, 18.108.085, 18.120.020, 18.122.150,
7 18.130.020, 18.130.040, 18.130.050, 18.130.060, 18.130.090, 18.130.165,
8 18.130.175, 18.130.185, 18.130.190, 18.130.270, 18.130.300, 18.135.070,
9 18.135.080, 18.138.070, 18.138.090, 18.155.040, 43.70.220, 43.70.240,
10 and 43.70.300; reenacting and amending RCW 18.64.245, 18.71.030, and
11 18.88A.050; adding new sections to chapter 7.06 RCW; adding new
12 sections to chapter 18.25 RCW; adding a new section to chapter 18.64
13 RCW; adding a new section to chapter 18.64A RCW; adding new sections to
14 chapter 18.130 RCW; adding a new chapter to Title 18 RCW; creating a
15 new section; recodifying RCW 18.26.030, 18.26.320, 18.26.330,
16 18.26.340, 18.26.350, 18.26.360, 18.26.370, and 18.26.380; repealing

1 RCW 18.26.010, 18.26.020, 18.26.028, 18.26.040, 18.26.050, 18.26.060,
2 18.26.070, 18.26.080, 18.26.090, 18.26.110, 18.26.900, 18.32.500,
3 18.32.510, 18.32.520, 18.32.530, 18.32.534, 18.32.560, 18.32.570,
4 18.32.580, 18.32.590, 18.32.600, 18.32.610, 18.32.620, 18.32.665,
5 18.32.745, 18.35.220, 18.54.150, 18.57.174, 18.71A.070, 18.72.010,
6 18.72.020, 18.72.090, 18.72.100, 18.72.110, 18.72.120, 18.72.130,
7 18.72.150, 18.72.154, 18.72.155, 18.72.165, 18.72.190, 18.72.265,
8 18.72.301, 18.72.306, 18.72.311, 18.72.316, 18.72.321, 18.72.340,
9 18.72.380, 18.72.390, 18.72.400, 18.72.900, 18.72.910, 18.72.045,
10 18.72.345, 18.83.135, 18.83.155, 18.83.168, 18.92.047, 18.130.100,
11 18.130.140, 43.131.337, and 43.131.338; and declaring an emergency

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

13 PART I - INTENT, OBJECTIVES, AND COMPONENTS

14 NEW SECTION. **Sec. 1.** LEGISLATIVE INTENT. The legislature finds
15 that the current health care professional disciplinary system is of
16 limited effectiveness in protecting the public against unsafe and
17 unprofessional conduct.

18 The legislature further finds that the current state quality
19 assurance system is limited primarily to the professional regulatory
20 programs that require competency examinations for licensed and
21 certified health care professionals and which discipline professionals
22 when complaints are reported.

23 The legislature further finds that the effectiveness of continuing
24 education as a method to assure continued competency is debatable.

25 The legislature declares that an effective system of health care
26 quality assurance must be proactive and include provisions for
27 establishing practice and conduct standards, identifying professionals

1 who are not in compliance with those standards, actively promoting
2 correction of deficiencies, encouraging consumers to take a more active
3 role in decisions about their health care, and taking effective
4 disciplinary action through a uniform and consistent disciplinary body
5 when needed to protect consumers.

6 The legislature further declares that a major goal of the health
7 care quality assurance system is more consistent discipline, improved
8 health care outcomes, and reduced levels of malpractice. Additionally,
9 the public will be better served when malpractice claims are
10 appropriately and efficiently resolved through such alternatives to
11 litigation as mediation and arbitration.

12 NEW SECTION. **Sec. 2.** HEALTH CARE PROFESSIONAL QUALITY ASSURANCE
13 SYSTEM--POLICY OBJECTIVES AND SYSTEM COMPONENTS. (1) There is created
14 a health care professional quality assurance system. The system has
15 the following policy goals:

16 (a) To assure the safety of the public health is the primary
17 function of quality assurance;

18 (b) To assure that the consumer of health care services has
19 meaningful access to the quality assurance system to provide
20 information and input about quality assurance issues, to make
21 intelligent decisions when selecting health care professionals, and to
22 report and resolve acts of unsafe and unprofessional practice;

23 (c) To assure that each individual applying for a state credential
24 to practice a health care profession meets applicable competency
25 requirements;

26 (d) To ensure the ongoing delivery of high quality health care
27 services by credentialed health care professionals;

1 (e) To continually evaluate and monitor the performance of health
2 care professionals using objective, uniform, and state-of-the-art
3 methods for such assessments;

4 (f) To identify unprofessional and unsafe practice and initiate a
5 multistep process to identify, verify, and change such behavior;

6 (g) To provide a means for health care professionals, consumers,
7 purchasers, and others to address quality assurance issues, to
8 understand mutual and divergent perspectives concerning the delivery of
9 high quality health care, to resolve conflicts involving the delivery
10 of quality care, and to improve the availability of high quality health
11 care in the state;

12 (h) To establish methods to assist health care professionals to
13 maintain competency and improve performance;

14 (i) To expeditiously take disciplinary actions when in the best
15 interest of the public health; and

16 (j) To be effective yet minimally intrusive in the patient-
17 professional relationship.

18 (2) The elements of a quality assurance system shall at least
19 include:

20 (a) The assessment of individuals to determine whether they meet
21 educational and experience prerequisites necessary for safe practice
22 and licensure or certification by the state;

23 (b) The development and use of clear and professionally acceptable
24 standards of safe practice;

25 (c) The ongoing assessment of unsafe and unprofessional practice
26 through objective methods such as the use of data to monitor
27 performance and utilization;

28 (d) The use of a wide variety of educational and remedial
29 activities designed to assure continued competency, motivate

1 excellence, and assist health care professionals to improve those areas
2 where unsafe or unprofessional practice has been identified;

3 (e) The monitoring and rehabilitation of impaired health care
4 professionals;

5 (f) The effective and expeditious discipline of health care
6 professionals who exhibit unsafe and unprofessional practice when
7 necessary to protect the public; and

8 (g) The resolution of conflicts involving the provision of health
9 care services.

10 PART II - HEALTH PROFESSIONAL QUALITY ASSURANCE COMMITTEE

11 NEW SECTION. **Sec. 3.** HEALTH PROFESSIONAL QUALITY ASSURANCE
12 COMMITTEE. (1) There is established a health professional quality
13 assurance committee consisting of five members. Three members of the
14 committee shall be active members of the Washington state bar
15 association and shall be appointed by the governor, with advice and
16 consent of the senate. Two members of the committee shall be rotating
17 members. One of the rotating members shall be a member of the
18 licensing board or advisory committee for the profession that has
19 credentialing jurisdiction in the disciplinary action being pursued by
20 the committee and shall be a Washington credential holder of that
21 health care profession. One member shall be a consumer member of the
22 licensing board or advisory committee having credentialing jurisdiction
23 in the disciplinary action being pursued by the committee. These
24 members shall be appointed by the licensing authority for the
25 profession. If the profession has no consumer member, that member
26 shall be appointed by the secretary. While serving on the committee
27 the members, except for the health care professional, shall have no
28 fiduciary obligations to a health facility or other health agency and

1 may have no material financial interest in the rendering of health
2 services. The governor shall appoint the chair of the committee from
3 the nonrotating membership.

4 (2) The governor shall stagger the initial terms of office of the
5 nonrotating members of the committee. Thereafter all terms shall be
6 for a period of six years. Each nonrotating member of the committee
7 shall be eligible for reappointment and shall hold office until a
8 successor is appointed and qualified. In the event of a vacancy among
9 the nonrotating membership the governor may appoint a successor to fill
10 the unexpired term.

11 (3) Whenever the workload of the committee and its orderly and
12 expeditious disposition shall necessitate, the committee may request
13 that the governor appoint three additional pro tempore members. The
14 qualifications of the pro tempore members shall be the same as the
15 nonrotating members. The appointments shall be for a definite period
16 of time. While serving as committee members pro tem, persons so
17 appointed have all the powers, duties, and immunities, and are entitled
18 to the emoluments, including travel expenses, of nonrotating members of
19 the committee.

20 (4) The nonrotating members of the committee shall devote their
21 entire time to the duties of the committee and shall receive for their
22 services a salary as fixed by the governor in accordance with the
23 provisions of RCW 43.03.040 in addition to travel expenses in
24 accordance with RCW 43.03.050 and 43.03.060. Rotating members are
25 entitled to the same emoluments, including travel, of the nonrotating
26 members while actively serving on the committee. The committee shall
27 adopt a seal which shall be judicially recognized.

28 (5) Any member or pro tempore member of the committee may be
29 removed for inefficiency, malfeasance, or misfeasance in office, by the
30 governor.

1 NEW SECTION. **Sec. 4.** AD HOC COMMITTEES. The committee may form
2 one or more ad hoc committees in connection with its proceedings. Ad
3 hoc committees have authority to act as directed by the committee with
4 respect to all matters concerning the review, investigation, and
5 adjudication of all complaints, allegations, charges, and matters
6 subject to the jurisdiction of the committee. The authority to act
7 through ad hoc committees does not restrict the authority of the
8 committee to act as a single body at any phase of proceedings within
9 the ad hoc committee's jurisdiction. An ad hoc committee may make
10 interim orders and issue final decisions with respect to matters and
11 cases delegated to it by the committee. Final decisions may be
12 appealed as provided in the administrative procedure act, chapter 34.05
13 RCW.

14 NEW SECTION. **Sec. 5.** STANDARDS OF PRACTICE--RULES. (1) The
15 secretary shall adopt rules concerning standards of professional
16 conduct or practice for professions specified in RCW 18.130.040(2)(a).

17 (2) The licensing boards of professions specified in RCW
18 18.130.040(2)(b) shall adopt rules concerning standards of professional
19 conduct or practice for their respective professions.

20 (3) The board of funeral directors and embalmers shall adopt rules
21 concerning standards of professional conduct or practice for persons
22 subject to licensure under chapter 18.39 RCW.

23 NEW SECTION. **Sec. 6.** ADMINISTRATIVE PROCEDURE ACT APPLICABILITY.
24 All disciplinary proceedings under this chapter shall be governed by
25 the administrative procedure act, chapter 34.05 RCW.

26 NEW SECTION. **Sec. 7.** COSTS OF DISCIPLINARY ACTIVITIES. To cover
27 the costs of the provisions of this chapter, the secretary shall assess

1 a surcharge on each license application or renewal to be collected by
2 the department. These funds shall be placed in the health professional
3 account to be used solely for the implementation of this chapter,
4 except for provisions funded under RCW 18.130.186.

5 NEW SECTION. **Sec. 8.** PRESERVATION OF EXISTING DISCIPLINARY
6 ORDERS--PENDING DISCIPLINARY CASE DISPOSITION. Nothing in chapter ____,
7 Laws of 1992 (this act), shall be construed to modify or nullify
8 disciplinary orders in effect prior to the effective date of this act.
9 Disciplinary cases pending on the effective date of this act come under
10 the jurisdiction of the disciplinary authority established under this
11 chapter for disposition.

12 PART III - HEALTH CARE MALPRACTICE

13 NEW SECTION. **Sec. 9.** A new section is added to chapter 7.06 RCW
14 to read as follows:

15 LEGISLATIVE FINDINGS AND INTENT. The legislature finds that:

16 (1) The cost of health care is increased by the cost of litigation
17 arising from injuries from the delivery of health care;

18 (2) The cost of health care is increased by the cost of defensive
19 medicine which is performed solely to avoid the uncertainty inherent in
20 litigation;

21 (3) The cost of such litigation can be reduced by the use of
22 alternate dispute resolution methods;

23 (4) Appropriate mediation can resolve claims through mutual
24 agreement that save costs to the parties and the health care system;
25 and

26 (5) Where the matter must be litigated, arbitration can reduce
27 costs, provide quick resolution, and reduce attorneys' fees.

1 The legislature declares that claims arising from health care
2 injuries should be resolved in the most efficient and cost-effective
3 way so as to minimize the personal cost to the parties and the
4 financial costs to society. It is the intent of the legislature to
5 encourage parties and courts to use alternate dispute resolution
6 methods, such as mediation, in resolving these matters or to require
7 mandatory arbitration where no other alternate method of dispute
8 resolution is acceptable to the parties.

9 NEW SECTION. **Sec. 10.** A new section is added to chapter 7.06 RCW
10 to read as follows:

11 MANDATORY ARBITRATION OF HEALTH CARE MALPRACTICE. Notwithstanding
12 the provisions of RCW 7.06.010 and 7.06.020 all actions regardless of
13 the amount in claim for injuries resulting from health care are subject
14 to mandatory arbitration.

15 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.130
16 RCW to read as follows:

17 APPOINTMENT OF MALPRACTICE ARBITRATION PANELS. In addition to its
18 other duties the health care quality assurance committee shall appoint
19 a panel of arbitrators who meet the qualifications under RCW 7.06.040
20 to act as arbitrators in the mandatory arbitration of all actions for
21 injuries resulting from health care.

22 **Sec. 12.** RCW 7.06.040 and 1987 c 212 s 102 are each amended to
23 read as follows:

24 ARBITRATORS APPOINTED BY HEALTH CARE QUALITY ASSURANCE COMMITTEE.
25 The appointment of arbitrators shall be prescribed by rules adopted by
26 the supreme court, except that arbitrators for actions for injuries
27 resulting from health care shall be appointed by the health care

1 quality assurance committee as established in chapter 18.130 RCW. An
2 arbitrator must be a member of the state bar association who has been
3 admitted to the bar for a minimum of five years or who is a retired
4 judge. The parties may stipulate to a nonlawyer arbitrator. The
5 supreme court may prescribe by rule additional qualifications of
6 arbitrators.

7 Arbitrators shall be compensated in the same amount and manner as
8 judges pro tempore of the superior court.

9 **Sec. 13.** RCW 7.06.060 and 1979 c 103 s 6 are each amended to read
10 as follows:

11 COSTS AND ATTORNEYS' FEES. The supreme court may by rule provide
12 for costs and reasonable ((attorney's)) attorneys' fees that may be
13 assessed against a party appealing from the award who fails to improve
14 his or her position on the trial de novo, except that in all actions
15 for injuries resulting from health care, costs and attorneys' fees
16 shall be assessed against a party appealing from the award who fails to
17 improve his or her position on the trial de novo.

18 PART IV - HEALTH CARE QUALITY ASSURANCE DATA COLLECTION

19 NEW SECTION. **Sec. 14.** LEGISLATIVE INTENT. The legislature finds
20 that numerous state agencies that purchase health care services have
21 established systems for monitoring health professional licensees for
22 utilization, cost, and practice patterns and for collecting data on
23 disciplinary and enforcement actions regarding licensees. The
24 legislature further finds that the state serves as the coordinator of
25 data for reporting to the federal national data bank on health
26 professionals and that private entities also collect and maintain
27 information on health professionals but such data is not integrated

1 with state activities. The legislature declares that state agencies
2 and private entities should coordinate the use of the data available to
3 identify performance that deviates from standards of what is acceptable
4 for the purpose of improving professional performance. The legislature
5 further declares that state agencies and private entities should also
6 work to establish a uniform data format and standards to characterize,
7 profile, and track health professionals' practices.

8 NEW SECTION. **Sec. 15.** HEALTH PROFESSIONAL DATA INFORMATION PLAN.

9 The department of health, the department of social and health services,
10 the health care authority, the basic health plan, the department of
11 labor and industries, the insurance commissioner, and three
12 representatives of insurers and health care professionals appointed by
13 the governor, shall develop a health profession data information plan.
14 The governor shall appoint a lead administrative agency and the insurer
15 and health care professionals representatives within thirty days of the
16 effective date of this act. The plan shall address the following
17 elements:

18 (1) The utilization of existing data systems within state agencies
19 for the purpose of monitoring the quality of health care services
20 provided by health professionals credentialed under this title;

21 (2) An assessment of the potential for, and strategies to pursue,
22 the standardization and coordination of state agency data systems to
23 improve efficiency and effectiveness in sharing data;

24 (3) An assessment of the extent to which private entities that
25 collect data are able and willing to exchange information with the
26 state to expand and improve both private and public monitoring of
27 health professional practices, and strategies for incorporating them
28 into an information-sharing program;

1 (4) The development, in consultation with the health professional
2 quality assurance committee established under chapter 18.130 RCW, of a
3 proposed system for the submission of data to and utilization of data
4 by the health professional quality assurance committee for the purpose
5 of identification of health care professionals engaged in
6 unprofessional conduct and unsafe practice; and

7 (5) The development, in consultation with the committee established
8 in section 17 of this act, of a proposed data system for the purpose of
9 the development of practice parameters and risk management protocols
10 and the monitoring of professional performance and compliance with the
11 practice parameters and risk management protocols.

12 The lead administrative agency shall submit the plan to the
13 governor and the appropriate health care committees of the legislature
14 by December 1, 1992, with recommendations for legislation needed to
15 implement the plan or portions of the plan. The elements of the plan
16 addressed in subsections (1) and (2) of this section shall be
17 implemented at the direction of the governor to the extent that no
18 legislative action is required.

19 PART V - HEALTH CARE SERVICES PRACTICE PARAMETERS

20 NEW SECTION. **Sec. 16.** LEGISLATIVE INTENT. The legislature finds
21 that improving the quality of health services provided by health care
22 professionals is an important public policy objective. It is in the
23 public's interest to assure that health care professionals utilize
24 diagnostic procedures and treatments that are appropriate and
25 efficacious. The legislature further finds that the current litigious
26 malpractice environment has resulted in over utilization of some
27 procedures and treatments in the practice of defensive medicine and

1 that this has resulted in higher health care costs to individuals and
2 society.

3 The legislature further finds that the state of health care
4 technology and knowledge are increasingly advancing to the stage where
5 it is possible to assess the effectiveness and appropriateness of
6 specific treatments and measure the quality of health care provided to
7 individuals. Such advances will permit a more systematic monitoring
8 and evaluation of services delivered by health care professionals
9 towards the goal of assuring appropriate and effective utilization of
10 such services.

11 The legislature finds and declares that practice parameters and
12 risk management protocols can be an effective means for assuring that
13 appropriate and efficacious treatments and public policy should be
14 developed to assure the development and use of such parameters and
15 protocols.

16 NEW SECTION. **Sec. 17.** DEFINITIONS. Unless the context clearly
17 requires otherwise, the definitions in this section apply throughout
18 this chapter.

19 (1) "Committee" means the health care services practice parameters
20 development committee.

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

22 (3) "Secretary" means the secretary of the department of health.

23 NEW SECTION. **Sec. 18.** HEALTH CARE SERVICES PRACTICE PARAMETERS
24 DEVELOPMENT COMMITTEE--TECHNICAL ADVISORY COMMITTEES. (1) The health
25 care services practice parameters development committee is established.
26 The secretary shall provide administrative support to the committee.
27 The purpose of the committee is to develop practice parameters and risk
28 management protocols for health care professions regulated by the state

1 under this title. Initially, the committee shall develop practice
2 parameters and risk management protocols for physicians licensed under
3 chapters 18.57 and 18.71 RCW who practice obstetrics and gynecology,
4 emergency medicine and cardiology.

5 (2) The committee shall be composed of five members appointed by
6 the governor. One member shall represent a payer of health care
7 services. One member shall be a consumer. One member shall be a
8 health care professional regulated under this title. One member shall
9 be a representative of the department. One member shall be an
10 individual with research or clinical expertise in the development of
11 practice parameters. Excluding the health care professional, the
12 individual with research or clinical experience, and the payer, no
13 members shall have any fiduciary obligations to a health care facility
14 and shall have no material financial interest in the rendering of
15 health care services while serving on the committee. The governor
16 shall stagger the initial terms of office of the members of the
17 committee, except for the state agency member who shall serve at the
18 pleasure of the governor. Thereafter all member terms, other than the
19 state agency member, shall be for a period of three years. The
20 committee shall elect a chairperson.

21 (3) The committee shall establish such technical advisory
22 committees as are necessary for the purpose of developing specific
23 practice parameters and risk management protocols for health care
24 services or professions. The committee shall select the membership of
25 the technical advisory committees. The membership shall include such
26 clinical and research expertise as is necessary to develop practice
27 parameters for the services and professions involved and shall also
28 include adequate representation from the professions affected by the
29 practice parameters and risk management protocols. In selecting
30 members, the committee shall take recommendations from the appropriate

1 professional associations representing the affected professions. The
2 committee shall assure that representation is made with respect to the
3 diversity of practice settings where health care services are
4 delivered. The technical advisory committees shall also have
5 representation from the regulatory authority authorized under this
6 title for the affected health professions. The technical advisory
7 committees shall report their recommended practice parameters and risk
8 management protocols to the committee for approval.

9 (4) The committee may from time to time contract for additional
10 expertise necessary to develop practice parameters and risk management
11 protocols.

12 (5) The committee and technical advisory committees shall meet at
13 the places and times it determines and as often as necessary to
14 discharge its duties. Members shall be compensated in accordance with
15 RCW 43.03.240 in addition to travel expenses provided by RCW
16 43.03.050 and 43.03.060.

17 NEW SECTION. **Sec. 19.** PRACTICE PARAMETERS AND RISK MANAGEMENT
18 PROTOCOL DEVELOPMENT PROJECT--MONITORING FOR COMPLIANCE. (1) The
19 committee, with the assistance of the technical advisory committees,
20 shall develop practice parameters and risk management protocols for
21 health care services and professionals in accordance with this chapter.
22 The practice parameters shall define appropriate clinical indications
23 and methods of treatment within each health care service specialty.
24 The risk management protocols shall establish standards of practice to
25 prevent malpractice occurrences and increase the validity of the
26 malpractice claims that are pursued. Practice parameters and risk
27 management protocols shall be consistent with appropriate standards of
28 care and levels of quality.

1 (2) The committee, in consultation with the secretary, the
2 appropriate health professional regulatory boards established under
3 this title, and other professional associations representing health
4 care professionals and facilities, shall devise and implement a method
5 for dissemination of practice parameters and risk management protocols
6 to the affected health care professionals.

7 (3) The committee shall monitor compliance with practice parameters
8 and risk management protocols. It shall consult with and advise the
9 state agencies under section 14 of this act that are required to
10 develop the necessary data system to enable the committee to fulfill
11 the purposes of this subsection.

12 NEW SECTION. **Sec. 20.** REPORT TO THE LEGISLATURE AND GOVERNOR.

13 (1) The committee shall develop its initial practice parameters by July
14 1, 1993, and shall by October 1, 1993, make a status report to the
15 appropriate standing committees of the legislature and to the governor.
16 In its report the committee shall:

17 (a) Recommend other health care services and professions where
18 practice parameters and risk management protocols should be developed
19 and shall present a proposed timetable for such development. The
20 committee shall make its recommendations in a manner that assures the
21 development and implementation of practice parameters and risk
22 management protocols as expeditiously or is technically feasible;

23 (b) Recommend efficient and effective methods necessary to develop
24 practice parameters and risk management protocols for other services
25 and professions;

26 (c) Report on the practical and technical requirements necessary to
27 develop and implement practice parameters and risk management
28 protocols. In making such recommendations, the committee shall consult

1 with such appropriate professional, clinical, and research expertise as
2 is necessary.

3 (2) The governor shall approve, disapprove, or modify the
4 committee's recommendation. The development of practice parameters and
5 risk management protocols for other health care professions and
6 specialties shall proceed only with the approval of the governor.

7 NEW SECTION. **Sec. 21.** ADMINISTRATIVE PROCEDURE ACT APPLICABILITY.
8 All proceedings conducted under this chapter shall be governed by the
9 administrative procedure act, chapter 34.05 RCW.

10 NEW SECTION. **Sec. 22.** USE OF PRACTICE PROTOCOLS AND RISK
11 MANAGEMENT PROTOCOLS AS AN AFFIRMATIVE DEFENSE. (1) Beginning January
12 1, 1994, a health care professional or health care professional's
13 employer may plead as an affirmative defense to a claim for
14 professional negligence compliance with the practice parameters and
15 risk management protocols that have been established under this
16 chapter. The burden of proving compliance is on the health care
17 professional. If the health care professional or health care
18 professional's employer introduces at trial evidence of compliance with
19 the parameters and protocols, then the plaintiff may introduce evidence
20 on the issue of compliance.

21 (2) This section does not affect the plaintiff's burden to prove
22 the plaintiff's cause of action by a preponderance of the evidence as
23 otherwise provided by law.

24 (3) This section applies to causes of action accruing after January
25 1, 1994.

26 (4) This section applies only to those health care professions for
27 which practice parameters and risk management protocols have been
28 developed as authorized under this chapter.

1 NEW SECTION. **Sec. 23.** EFFECTIVE DATE FOR COMPLIANCE. By January
2 1, 1994, every physician licensed under chapters 18.57 and 18.71 RCW
3 who practices obstetrics and gynecology, emergency medicine, and
4 cardiology shall comply with the applicable practice parameters and
5 risk management protocols established under this chapter. Failure to
6 comply with this requirement is grounds for discipline for
7 unprofessional conduct under chapter 18.130 RCW.

8 PART VI - CHANGES TO HEALTH PROFESSIONAL PRACTICE ACTS
9 AND UNIFORM DISCIPLINARY ACT

10 **Sec. 24.** RCW 4.24.260 and 1975 1st ex.s. c 114 s 3 are each
11 amended to read as follows:

12 PROFESSIONS UNDER RCW 18.130.140--IMMUNITY FOR FILING OR PRESENTING
13 EVIDENCE. (~~Physicians licensed under chapter 18.71 RCW[,]~~ dentists
14 ~~licensed under chapter 18.32 RCW and pharmacists licensed under chapter~~
15 ~~18.64 RCW~~)) Licensees regulated under RCW 18.130.040 who, in good
16 faith, file charges or present evidence against another member of their
17 profession based on the claimed incompetency or gross misconduct of
18 such person before the (~~medical disciplinary board established under~~
19 ~~chapter 18.72 RCW, in a proceeding under chapter 18.32 RCW or to the~~
20 ~~board of pharmacy under RCW 18.64.160~~)) health professional quality
21 assurance committee under chapter 18.130 RCW shall be immune from civil
22 action for damages arising out of such activities.

23 **Sec. 25.** RCW 18.06.110 and 1991 c 3 s 11 are each amended to read
24 as follows:

25 ACUPUNCTURE--APPLICATION OF UNIFORM DISCIPLINARY ACT. The uniform
26 disciplinary act, chapter 18.130 RCW, governs uncertified practice, the
27 issuance and denial of certificates, and the disciplining of

1 certificate holders under this chapter. (~~The secretary shall be the~~
2 ~~disciplining authority under this chapter.~~)

3 **Sec. 26.** RCW 18.19.050 and 1991 c 3 s 21 are each amended to read
4 as follows:

5 COUNSELORS--APPLICATION OF UNIFORM DISCIPLINARY ACT. (1) In
6 addition to any other authority provided by law, the secretary has the
7 following authority:

8 (a) To adopt rules, in accordance with chapter 34.05 RCW, necessary
9 to implement this chapter;

10 (b) To set all certification, registration, and renewal fees in
11 accordance with RCW 43.70.250 and to collect and deposit all such fees
12 in the health professions account established under RCW 43.70.320;

13 (c) To establish forms and procedures necessary to administer this
14 chapter;

15 (d) To hire clerical, administrative, and investigative staff as
16 needed to implement this chapter;

17 (e) To issue a registration to any applicant who has met the
18 requirements for registration;

19 (f) To set educational, ethical, and professional standards of
20 practice for certification;

21 (g) To prepare and administer or cause to be prepared and
22 administered an examination for all qualified applicants for
23 certification;

24 (h) To establish criteria for evaluating the ability and
25 qualifications of persons applying for a certificate, including
26 standards for passing the examination and standards of qualification
27 for certification to practice;

28 (i) To evaluate and designate those schools from which graduation
29 will be accepted as proof of an applicant's eligibility to receive a

1 certificate and to establish standards and procedures for accepting
2 alternative training in lieu of such graduation;

3 (j) To issue a certificate to any applicant who has met the
4 education, training, and conduct requirements for certification;

5 (k) To set competence requirements for maintaining certification;
6 and

7 (l) To develop a dictionary of recognized professions and
8 occupations providing counseling services to the public included under
9 this chapter.

10 (2) The uniform disciplinary act, chapter 18.130 RCW, governs the
11 issuance and denial of certifications and registrations and the
12 discipline of certified practitioners and registrants under this
13 chapter. (~~The secretary shall be the disciplining authority under
14 this chapter.~~) The absence of educational or training requirements
15 for counselors registered under this chapter or the counselor's use of
16 nontraditional nonabusive therapeutic techniques shall not, in and of
17 itself, give the secretary authority to unilaterally determine the
18 training and competence or to define or restrict the scope of practice
19 of such individuals.

20 (3) The department shall publish and disseminate information in
21 order to educate the public about the responsibilities of counselors
22 and the rights and responsibilities of clients established under this
23 chapter. Solely for the purposes of administering this education
24 requirement, the secretary shall assess an additional fee for each
25 registration and certification application and renewal, equal to five
26 percent of the fee. The revenue collected from the assessment fee may
27 be appropriated by the legislature for the department's use in
28 educating consumers pursuant to this section. The authority to charge
29 the assessment fee shall terminate on June 30, 1994.

1 **Sec. 27.** RCW 18.22.005 and 1990 c 147 s 1 are each amended to read
2 as follows:

3 PODIATRIC MEDICAL BOARD. The legislature finds that the conduct of
4 podiatric physicians and surgeons licensed to practice in this state
5 plays a vital role in preserving the public health and well-being. The
6 purpose of this chapter is to establish an effective public agency to
7 regulate the practice of podiatric medicine and surgery for the
8 protection and promotion of the public health, safety, and welfare
9 (~~and to act as a disciplinary body for the licensed podiatric~~
10 ~~physicians and surgeons of this state and to ensure that only~~
11 ~~individuals who meet and maintain minimum standards of competence and~~
12 ~~conduct may obtain a license to provide podiatric services to the~~
13 ~~public~~)).

14 **Sec. 28.** RCW 18.25.019 and 1987 c 150 s 12 are each amended to
15 read as follows:

16 CHIROPRACTIC--APPLICATION OF UNIFORM DISCIPLINARY ACT. The uniform
17 disciplinary act, chapter 18.130 RCW, governs unlicensed practice and
18 the issuance and denial of licenses and the disciplining of licensees
19 under this chapter.

20 **Sec. 29.** RCW 18.26.030 and 1986 c 259 s 25 are each amended to
21 read as follows:

22 CHIROPRACTIC--UNPROFESSIONAL CONDUCT. (1) In addition to those
23 acts defined in chapter 18.130 RCW, the term "unprofessional conduct"
24 as used in this chapter (~~and chapter 18.25 RCW~~) includes failing to
25 differentiate chiropractic care from any and all other methods of
26 healing at all times.

27 (2) Proceedings involving alleged unprofessional conduct shall be
28 conducted by the attorney general upon the direction of the board.

1 **Sec. 30.** RCW 18.26.360 and 1991 c 320 s 5 are each amended to read
2 as follows:

3 CHIROPRACTIC--PEER REVIEW COMMITTEE COMPLAINT. The peer review
4 committee shall file with the (~~board~~) disciplinary authority under
5 chapter 18.130 RCW a complaint against a chiropractor if the committee
6 determines that reasonable cause exists to believe the chiropractor has
7 committed unprofessional conduct. The peer review committee shall
8 transmit all information pertinent to the complaint to the board. Such
9 information shall be confidential and shall be used solely for
10 disciplinary purposes.

11 **Sec. 31.** RCW 18.32.195 and 1991 c 3 s 69 are each amended to read
12 as follows:

13 DENTISTRY--DISCIPLINARY AUTHORITY. The board may, without
14 examination, issue a license to persons who possess the qualifications
15 set forth in this section.

16 (1) The board may, upon written request of the dean of the school
17 of dentistry of the University of Washington, issue a license to
18 practice dentistry in this state to persons who have been licensed or
19 otherwise authorized to practice dentistry in another state or country
20 and who have been accepted for employment by the school of dentistry as
21 full-time faculty members. For purposes of this section, this means
22 teaching members of the faculty of the school of dentistry of the
23 University of Washington who are so employed on a one hundred percent
24 of work time basis. Such license shall permit the holder thereof to
25 practice dentistry within the confines of the university facilities for
26 a period of one year while he or she is so employed as a full-time
27 faculty member by the school of dentistry of the University of
28 Washington. It shall terminate whenever the holder ceases to be such
29 a full-time faculty member. Such license shall permit the holder

1 thereof to practice dentistry only in connection with his or her duties
2 in employment with the school of dentistry of the University of
3 Washington. This limitation shall be stated on the license.

4 (2) The board may condition the granting of such license with terms
5 the board deems appropriate. All persons licensed under this section
6 shall be subject to the jurisdiction of the ((~~dental disciplinary~~
7 ~~board~~)) disciplinary authority under chapter 18.130 RCW to the same
8 extent as other members of the dental profession, in accordance with
9 this chapter, and in addition the licensee may be disciplined by the
10 dental disciplinary board after a hearing has been held in accordance
11 with the provisions set forth in this chapter, and determination by the
12 dental disciplinary board that such licensee has violated any of the
13 restrictions set forth in this section.

14 (3) Persons applying for licensure pursuant to this section shall
15 pay the application fee determined by the secretary and, in the event
16 the license applied for is issued, a license fee at the rate provided
17 for licenses generally. After review by the board of dental examiners,
18 licenses issued under this section may be renewed annually if the
19 licensee continues to be employed as a full-time faculty member of the
20 school of dentistry of the University of Washington and otherwise meets
21 the requirements of the provisions and conditions deemed appropriate by
22 the board of dental examiners. Any person who obtains a license
23 pursuant to this section may, without an additional application fee,
24 apply for licensure under this chapter, in which case the applicant
25 shall be subject to examination and the other requirements of this
26 chapter.

27 **Sec. 32.** RCW 18.32.655 and 1986 c 259 s 35 are each amended to
28 read as follows:

1 DENTISTRY--RECORDS--RULE-MAKING AUTHORITY. (1) The ((dental))
2 disciplinary ((board)) authority under chapter 18.130 RCW has the power
3 and it shall be its duty to((+)

4 (1)) require licensed dentists to keep and maintain a copy of each
5 laboratory referral instruction, describing detailed services rendered,
6 for a period to be determined by the ((board)) disciplinary authority
7 but not more than three years, and to require the production of all
8 such records for examination by the board or its authorized
9 representatives((+and)).

10 (2) ((~~Promulgate reasonable rules and regulations requiring~~
11 ~~licensed dentists to make, maintain and produce for examination by the~~
12 ~~board or its authorized representatives such other records as may be~~
13 ~~reasonable and proper in the performance of its duties and enforcing~~
14 ~~the provisions of this chapter~~)) The disciplinary authority under
15 chapter 18.130 RCW may adopt such rules as are necessary to carry out
16 the intent of this chapter.

17 **Sec. 33.** RCW 18.35.110 and 1987 c 150 s 22 are each amended to
18 read as follows:

19 HEARING AIDS. In addition to causes specified under RCW 18.130.170
20 and 18.130.180, any person licensed under this chapter may be subject
21 to disciplinary action by the ((council)) disciplinary authority under
22 chapter 18.130 RCW for any of the following causes:

23 (1) For unethical conduct in dealing in hearing aids. Unethical
24 conduct shall include, but not be limited to:

25 (a) Using or causing or promoting the use of, in any advertising
26 matter, promotional literature, testimonial, guarantee, warranty,
27 label, brand, insignia, or any other representation, however
28 disseminated or published, which is false, misleading or deceptive;

1 (b) Failing or refusing to honor or to perform as represented any
2 representation, promise, agreement, or warranty in connection with the
3 promotion, sale, dispensing, or fitting of the hearing aid;

4 (c) Advertising a particular model, type, or kind of hearing aid
5 for sale which purchasers or prospective purchasers responding to the
6 advertisement cannot purchase or are dissuaded from purchasing and
7 where it is established that the purpose of the advertisement is to
8 obtain prospects for the sale of a different model, type, or kind than
9 that advertised;

10 (d) Falsifying hearing test or evaluation results;

11 (e)(i) Whenever any of the following conditions are found or should
12 have been found to exist either from observations by the licensee or on
13 the basis of information furnished by the prospective hearing aid user
14 prior to fitting and dispensing a hearing aid to any such prospective
15 hearing aid user, failing to advise that prospective hearing aid user
16 in writing that the user should first consult a licensed physician
17 specializing in diseases of the ear or if no such licensed physician is
18 available in the community then to any duly licensed physician:

19 (A) Visible congenital or traumatic deformity of the ear, including
20 perforation of the eardrum;

21 (B) History of, or active drainage from the ear within the previous
22 ninety days;

23 (C) History of sudden or rapidly progressive hearing loss within
24 the previous ninety days;

25 (D) Acute or chronic dizziness;

26 (E) Any unilateral hearing loss;

27 (F) Significant air-bone gap when generally acceptable standards
28 have been established as defined by the food and drug administration;

29 (G) Visible evidence of significant cerumen accumulation or a
30 foreign body in the ear canal;

1 (H) Pain or discomfort in the ear; or

2 (I) Any other conditions that the department may by rule establish.

3 It is a violation of this subsection for any licensee or that
4 licensee's employees and putative agents upon making such required
5 referral for medical opinion to in any manner whatsoever disparage or
6 discourage a prospective hearing aid user from seeking such medical
7 opinion prior to the fitting and dispensing of a hearing aid. No such
8 referral for medical opinion need be made by any licensee in the
9 instance of replacement only of a hearing aid which has been lost or
10 damaged beyond repair within six months of the date of purchase. The
11 licensee or the licensee's employees or putative agents shall obtain a
12 signed statement from the hearing aid user documenting the waiver of
13 medical clearance and the waiver shall inform the prospective user that
14 signing the waiver is not in the user's best health interest:
15 PROVIDED, That the licensee shall maintain a copy of either the
16 physician's statement showing that the prospective hearing aid user has
17 had a medical evaluation or the statement waiving medical evaluation,
18 for a period of three years after the purchaser's receipt of a hearing
19 aid. Nothing in this section required to be performed by a licensee
20 shall mean that the licensee is engaged in the diagnosis of illness or
21 the practice of medicine or any other activity prohibited under the
22 laws of this state;

23 (ii) Fitting and dispensing a hearing aid to any person under
24 eighteen years of age who has not been examined and cleared for hearing
25 aid use within the previous six months by a physician specializing in
26 otolaryngology except in the case of replacement instruments or except
27 in the case of the parents or guardian of such person refusing, for
28 good cause, to seek medical opinion: PROVIDED, That should the parents
29 or guardian of such person refuse, for good cause, to seek medical

1 opinion, the licensee shall obtain from such parents or guardian a
2 certificate to that effect in a form as prescribed by the department;

3 (iii) Fitting and dispensing a hearing aid to any person under
4 eighteen years of age who has not been examined by an audiologist who
5 holds at least a master's degree in audiology for recommendations
6 during the previous six months, without first advising such person or
7 his or her parents or guardian in writing that he or she should first
8 consult an audiologist who holds at least a master's degree in
9 audiology, except in cases of hearing aids replaced within six months
10 of their purchase;

11 (f) Representing that the services or advice of a person licensed
12 to practice medicine and surgery under chapter 18.71 RCW or osteopathy
13 and surgery under chapter 18.57 RCW or of a clinical audiologist will
14 be used or made available in the selection, fitting, adjustment,
15 maintenance, or repair of hearing aids when that is not true, or using
16 the word "doctor," "clinic," or other like words, abbreviations, or
17 symbols which tend to connote a medical or osteopathic profession when
18 such use is not accurate;

19 (g) Permitting another to use his or her license;

20 (h) Stating or implying that the use of any hearing aid will
21 restore normal hearing, preserve hearing, prevent or retard progression
22 of a hearing impairment, or any other false, misleading, or medically
23 or audilogically ((~~unsupportable~~)) insupportable claim regarding the
24 efficiency of a hearing aid;

25 (i) Representing or implying that a hearing aid is or will be
26 "custom-made," "made to order," "prescription made," or in any other
27 sense specially fabricated for an individual when that is not the case;
28 or

29 (j) Directly or indirectly offering, giving, permitting, or causing
30 to be given, money or anything of value to any person who advised

1 another in a professional capacity as an inducement to influence that
2 person, or to have that person influence others to purchase or contract
3 to purchase any product sold or offered for sale by the licensee, or to
4 influence any person to refrain from dealing in the products of
5 competitors.

6 (2) Engaging in any unfair or deceptive practice or unfair method
7 of competition in trade within the meaning of RCW 19.86.020 as now or
8 hereafter amended.

9 (3) Aiding or abetting any violation of the rebating laws as stated
10 in chapter 19.68 RCW.

11 **Sec. 34.** RCW 18.35.161 and 1987 c 150 s 23 are each amended to
12 read as follows:

13 HEARING AIDS--COUNCIL. The council shall have the following powers
14 and duties:

15 (1) To establish by rule such minimum standards and procedures in
16 the fitting and dispensing of hearing aids as deemed appropriate and in
17 the public interest;

18 (2) To develop guidelines on the training and supervision of
19 trainees;

20 (3) To adopt any other rules or regulations necessary to implement
21 this chapter and which are not inconsistent with it; and

22 (4) To develop, approve, and administer all licensing examinations
23 required by this chapter(~~(; and~~

24 ~~(5) To require a licensee to make restitution to any individual~~
25 ~~injured by a violation of this chapter or chapter 18.130 RCW, the~~
26 ~~uniform disciplinary act. The authority to require restitution does~~
27 ~~not limit the council's authority to take other action deemed~~
28 ~~appropriate and provided for in this chapter or chapter 18.130 RCW)).~~

1 **Sec. 35.** RCW 18.36A.060 and 1991 c 3 s 91 are each amended to read
2 as follows:

3 NATUROPATHY. (1) In addition to any other authority provided by
4 law, the secretary may:

5 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
6 implement this chapter;

7 (b) Set all license, examination, and renewal fees in accordance
8 with RCW 43.70.250;

9 (c) Establish forms and procedures necessary to administer this
10 chapter;

11 (d) Determine the minimum education and experience requirements for
12 licensure in conformance with RCW 18.36A.090, including but not limited
13 to approval of educational programs;

14 (e) Prepare and administer or approve the preparation and
15 administration of examinations for licensure;

16 (f) Issue a license to any applicant who has met the education,
17 training, and examination requirements for licensure and deny a license
18 to applicants who do not meet the minimum qualifications for licensure;
19 except that denial of licenses based on unprofessional conduct or
20 impaired practice shall be governed by the uniform disciplinary act,
21 chapter 18.130 RCW;

22 (g) Hire clerical, administrative, and investigative staff as
23 needed to implement and administer this chapter and to hire
24 individuals, including those licensed under this chapter, to serve as
25 examiners or consultants as necessary to implement and administer this
26 chapter;

27 (h) Maintain the official department record of all applicants and
28 licensees;

29 (i) Determine whether alternative methods of training are
30 equivalent to formal education, and establish forms, procedures, and

1 criteria for evaluation of an applicant's equivalent alternative
2 training to determine the applicant's eligibility to take the
3 examination;

4 (j) Establish by rule the procedures for an appeal of examination
5 failure;

6 (k) Conduct a hearing on an appeal of a denial of a license based
7 on the applicant's failure to meet the minimum qualifications for
8 licensure. The hearing shall be conducted pursuant to chapter 34.05
9 RCW; and

10 (l) Adopt rules implementing a continuing competency program.

11 (2) The uniform disciplinary act, chapter 18.130 RCW, governs
12 unlicensed practice, the issuance and denial of licenses and the
13 discipline of licensees under this chapter. (~~The secretary shall be~~
14 ~~the disciplining authority under this chapter.~~)

15 **Sec. 36.** RCW 18.52C.040 and 1991 c 3 s 132 are each amended to
16 read as follows:

17 NURSING POOLS. (1) The nursing pool shall document that each
18 temporary employee or referred independent contractor provided or
19 referred to health care facilities currently meets the minimum state
20 credentialing requirements.

21 (2) The nursing pool shall not require, as a condition of
22 employment or referral, that employees or independent contractors of
23 the nursing pool recruit new employees or independent contractors for
24 the nursing pool from among the permanent employees of the health care
25 facility to which the nursing pool employee or independent contractor
26 has been assigned or referred.

27 (3) The nursing pool shall carry professional and general liability
28 insurance to insure against any loss or damage occurring, whether
29 professional or otherwise, as the result of the negligence of its

1 employees, agents or independent contractors for acts committed in the
2 course of their employment with the nursing pool: PROVIDED, That a
3 nursing pool that only refers self-employed, independent contractors to
4 health care facilities shall carry professional and general liability
5 insurance to cover its own liability as a nursing pool which refers
6 self-employed, independent contractors to health care facilities: AND
7 PROVIDED FURTHER, That it shall require, as a condition of referral,
8 that self-employed, independent contractors carry professional and
9 general liability insurance to insure against loss or damage resulting
10 from their own acts committed in the course of their own employment by
11 a health care facility.

12 (4) The uniform disciplinary act, chapter 18.130 RCW, shall govern
13 the issuance and denial of registration and the discipline of persons
14 registered under this chapter. (~~The secretary shall be the~~
15 ~~disciplinary authority under this chapter.~~)

16 **Sec. 37.** RCW 18.57.035 and 1991 c 160 s 9 are each amended to read
17 as follows:

18 OSTEOPATHIC MEDICINE AND SURGERY. The board may grant approval to
19 issue without examination a license to an osteopathic physician and
20 surgeon in a board-approved postgraduate training program in this state
21 if the applicant files an application and meets all the requirements
22 for licensure set forth in RCW 18.57.020 except for completion of one
23 year of postgraduate training. The secretary shall issue a
24 postgraduate osteopathic medicine and surgery license that permits the
25 physician in postgraduate training to practice osteopathic medicine and
26 surgery only in connection with his or her duties as a physician in
27 postgraduate training and does not authorize the physician to engage in
28 any other form of practice. Each physician in postgraduate training
29 shall practice osteopathic medicine and surgery only under the

1 supervision of a physician licensed in this state under this chapter or
2 chapter 18.71 RCW, but such supervision shall not be construed to
3 necessarily require the personal presence of the supervising physician
4 at the place where services are rendered.

5 All persons licensed under this section shall be subject to the
6 jurisdiction of the (~~board of osteopathic medicine and surgery as set~~
7 ~~forth in this chapter and~~) disciplinary authority under chapter 18.130
8 RCW.

9 Persons applying for licensure pursuant to this section shall pay
10 an application and renewal fee determined by the secretary as provided
11 in RCW 43.70.250. Licenses issued hereunder may be renewed annually.
12 Any person who obtains a license pursuant to this section may, apply
13 for licensure under this chapter, but shall submit a new application
14 form and comply with all other licensing requirements of this chapter.

15 **Sec. 38.** RCW 18.64.160 and 1985 c 7 s 60 are each amended to read
16 as follows:

17 PHARMACISTS--DISCIPLINARY ACTION. (~~The board of pharmacy shall~~
18 ~~have the power to refuse, suspend, or revoke~~) In addition to the
19 grounds under RCW 18.130.170 and 18.130.180, the disciplinary authority
20 under chapter 18.130 RCW may take disciplinary action against the
21 license of any pharmacist or intern upon proof that:

22 (1) His or her license was procured through fraud,
23 misrepresentation, or deceit;

24 (2) (~~He or she has been convicted of a felony relating to his or~~
25 ~~her practice as a pharmacist;~~

26 (3) ~~He or she has committed any act involving moral turpitude,~~
27 ~~dishonesty, or corruption, if the act committed directly relates to the~~
28 ~~pharmacist's fitness to practice pharmacy. Upon such conviction,~~
29 ~~however, the judgment and sentence shall be conclusive evidence at the~~

1 ~~ensuing disciplinary hearing of the guilt of the respondent pharmacist~~
2 ~~of the crime described in the indictment or information, and of his or~~
3 ~~her violation of the statute upon which it is based;~~

4 ~~(4) He or she is unfit to practice pharmacy because of habitual~~
5 ~~intemperance in the use of alcoholic beverages, drugs, controlled~~
6 ~~substances, or any other substance which impairs the performance of~~
7 ~~professional duties;~~

8 ~~(5) He or she exhibits behavior which may be due to physical or~~
9 ~~mental impairment, which creates an undue risk of causing harm to him~~
10 ~~or herself or to other persons when acting as a licensed pharmacist or~~
11 ~~intern;~~

12 ~~(6) He or she has incompetently or negligently practiced pharmacy,~~
13 ~~creating an unreasonable risk of harm to any individual;~~

14 ~~(7) His or her legal authority to practice pharmacy, issued by any~~
15 ~~other properly constituted licensing authority of any other state, has~~
16 ~~been and is currently suspended or revoked;~~

17 ~~(8))~~ In the event that a pharmacist is determined by a court of
18 competent jurisdiction to be mentally incompetent, the pharmacist shall
19 automatically have his or her license suspended by the board upon the
20 entry of the judgment, regardless of the pendency of an appeal;

21 ~~((9))~~ (3) He or she has knowingly violated or permitted the
22 violation of any provision of any state or federal law, rule, or
23 regulation governing the possession, use, distribution, or dispensing
24 of drugs, including, but not limited to, the violation of any provision
25 of this chapter, Title 69 RCW, or rule or regulation of the board;

26 ~~((10))~~ (4) He or she has knowingly allowed any unlicensed person
27 to take charge of a pharmacy or engage in the practice of pharmacy,
28 except a pharmacy intern or pharmacy assistant acting as authorized in
29 this chapter or chapter 18.64A RCW in the presence of and under the
30 immediate supervision of a licensed pharmacist;

1 (~~(11)~~) (5) He or she has compounded, dispensed, or caused the
2 compounding or dispensing of any drug or device which contains more or
3 less than the equivalent quantity of ingredient or ingredients
4 specified by the person who prescribed such drug or device(~~(÷~~
5 PROVIDED, HOWEVER, That)). Nothing herein shall be construed to
6 prevent the pharmacist from exercising professional judgment in the
7 preparation or providing of such drugs or devices.

8 (~~In any case of the refusal, suspension, or revocation of a~~
9 license by said board of pharmacy under the provisions of this chapter,
10 said board shall proceed in accordance with chapter 34.05 RCW.))

11 **Sec. 39.** RCW 18.64.245 and 1989 1st ex.s. c 9 s 402 and 1989 s 352
12 s 2 are each reenacted and amended to read as follows:

13 PHARMACISTS--RECORD OF PRESCRIPTIONS. Every proprietor or manager
14 of a pharmacy shall keep readily available a suitable record of
15 prescriptions which shall preserve for a period of not less than two
16 years the record of every prescription dispensed at such pharmacy which
17 shall be numbered, dated, and filed, and shall produce the same in
18 court or before any grand jury whenever lawfully required to do so.
19 The record shall be maintained either separately from all other records
20 of the pharmacy or in such form that the information required is
21 readily retrievable from ordinary business records of the pharmacy.
22 All record-keeping requirements for controlled substances must be
23 complied with. Such record of prescriptions shall be for confidential
24 use in the pharmacy, only. The record of prescriptions shall be open
25 for inspection by the board of pharmacy, the disciplinary authority
26 under chapter 18.130 RCW, or any officer of the law, who is authorized
27 to enforce chapter 18.64, 69.41, or 69.50 RCW.

1 **Sec. 40.** RCW 18.64.310 and 1989 1st ex.s. c 9 s 410 are each
2 amended to read as follows:

3 PHARMACISTS--DEPARTMENT OF HEALTH DUTIES. The department shall:

4 (1) Establish reasonable license and examination fees and fees for
5 services to other agencies in accordance with RCW 43.70.250. In cases
6 where there are unanticipated demands for services, the department may
7 request payment for services directly from the agencies for whom the
8 services are performed, to the extent that revenues or other funds are
9 available(~~(. Drug-related investigations regarding licensed health~~
10 ~~care practitioners shall be funded by an appropriation to the~~
11 ~~department from the health professions account. The payment may be~~
12 ~~made on either an advance or a reimbursable basis as approved by the~~
13 ~~director of financial management))~~);

14 (2) Employ, with confirmation by the board, an executive officer,
15 who shall be exempt from the provisions of chapter 41.06 RCW and who
16 shall be a pharmacist licensed in Washington, and employ inspectors,
17 investigators, chemists, and other persons as necessary to assist it
18 for any purpose which it may deem necessary;

19 (3) Investigate and prosecute, at the direction of the board,
20 including use of subpoena powers, violations of law or regulations
21 under its jurisdiction or the jurisdiction of the board of pharmacy;

22 (4) Make, at the direction of the board, inspections and
23 investigations of pharmacies and other places, including dispensing
24 machines, in which drugs or devices are stored, held, compounded,
25 dispensed, sold, or administered to the ultimate consumer, to take and
26 analyze any drugs or devices and to seize and condemn any drugs or
27 devices which are adulterated, misbranded, stored, held, dispensed,
28 distributed, administered, or compounded in violation of or contrary to
29 law. The written operating agreement between the department and the
30 board, as required by RCW 43.70.240 shall include provisions for the

1 department to involve the board in carrying out its duties required by
2 this section.

3 NEW SECTION. **Sec. 41.** A new section is added to chapter 18.64 RCW
4 to read as follows:

5 PHARMACISTS--APPLICATION OF THE UNIFORM DISCIPLINARY ACT. The
6 uniform disciplinary act, chapter 18.130 RCW, governs unlicensed
7 practice, the issuance and denial of licenses, and the discipline of
8 licensees under this chapter.

9 **Sec. 42.** RCW 18.64A.050 and 1989 1st ex.s. c 9 s 424 are each
10 amended to read as follows:

11 PHARMACY ASSISTANTS--DISCIPLINARY ACTION. (~~The board of pharmacy~~
12 ~~shall have the power to refuse, suspend, or revoke~~) In addition to the
13 grounds under RCW 18.130.170 and 18.130.180, the disciplinary authority
14 under chapter 18.130 RCW may take disciplinary action against the
15 certificate of any pharmacy assistant upon proof that:

16 (1) His or her certificate was procured through fraud,
17 misrepresentation or deceit;

18 (2) He or she has been found guilty of any offense in violation of
19 the laws of this state relating to drugs, poisons, cosmetics or drug
20 sundries by any court of competent jurisdiction. Nothing herein shall
21 be construed to affect or alter the provisions of RCW 9.96A.020;

22 (~~3~~) (~~He or she is unfit to perform his or her duties because of~~
23 ~~habitual intoxication or abuse of controlled substances;~~

24 ~~(4~~)) He or she has exhibited gross incompetency in the performance
25 of his or her duties;

26 (~~(5~~)) (4) He or she has willfully or repeatedly violated any of
27 the rules and regulations of the board of pharmacy or of the
28 department;

1 (~~(6)~~) (5) He or she has willfully or repeatedly performed duties
2 beyond the scope of his or her certificate in violation of the
3 provisions of this chapter; or

4 (~~(7)~~) (6) He or she has impersonated a licensed pharmacist.

5 In any case of the refusal, suspension or revocation of a
6 certificate by the (~~board~~) disciplinary authority, a hearing shall be
7 conducted in accordance with the provisions of RCW 18.64.160 and
8 chapter 18.130 RCW, as now or hereafter amended, and appeal may be
9 taken in accordance with the Administrative Procedure Act, chapter
10 34.05 RCW.

11 NEW SECTION. **Sec. 43.** A new section is added to chapter 18.64A
12 RCW to read as follows:

13 PHARMACY ASSISTANTS--APPLICATION OF THE UNIFORM DISCIPLINARY ACT.
14 The uniform disciplinary act, chapter 18.130 RCW, governs the issuance
15 and denial of certificates, and the discipline of certificants under
16 this chapter.

17 **Sec. 44.** RCW 18.71.019 and 1987 c 150 s 45 are each amended to
18 read as follows:

19 PHYSICIANS--APPLICATION OF UNIFORM DISCIPLINARY ACT. The uniform
20 disciplinary act, chapter 18.130 RCW, governs unlicensed practice
21 (~~and~~), the issuance and denial of licenses, and the discipline of
22 licensees under this chapter.

23 **Sec. 45.** RCW 18.71.030 and 1990 c 196 s 12 and 1990 c 33 s 552 are
24 each reenacted and amended to read as follows:

25 PHYSICIANS--EXEMPTIONS. Nothing in this chapter shall be construed
26 to apply to or interfere in any way with the practice of religion or

1 any kind of treatment by prayer; nor shall anything in this chapter be
2 construed to prohibit:

3 (1) The furnishing of medical assistance in cases of emergency
4 requiring immediate attention;

5 (2) The domestic administration of family remedies;

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

9 (4) The practice of dentistry, osteopathy, osteopathy and surgery,
10 nursing, chiropractic, (~~pediatry~~) podiatric medicine and surgery,
11 optometry, naturopathy or any other healing art licensed under the
12 methods or means permitted by such license;

13 (5) The practice of medicine in this state by any commissioned
14 medical officer serving in the armed forces of the United States or
15 public health service or any medical officer on duty with the United
16 States veterans administration while such medical officer is engaged in
17 the performance of the duties prescribed for him or her by the laws and
18 regulations of the United States;

19 (6) The practice of medicine by any practitioner licensed by
20 another state or territory in which he or she resides, provided that
21 such practitioner shall not open an office or appoint a place of
22 meeting patients or receiving calls within this state;

23 (7) The practice of medicine by a person who is a regular student
24 in a school of medicine approved and accredited by the board, however,
25 the performance of such services be only pursuant to a regular course
26 of instruction or assignments from his or her instructor, or that such
27 services are performed only under the supervision and control of a
28 person licensed pursuant to this chapter;

29 (8) The practice of medicine by a person serving a period of
30 postgraduate medical training in a program of clinical medical training

1 sponsored by a college or university in this state or by a hospital
2 accredited in this state, however, the performance of such services
3 shall be only pursuant to his or her duties as a trainee;

4 (9) The practice of medicine by a person who is regularly enrolled
5 in a physician assistant program approved by the board, however, the
6 performance of such services (~~((shall))~~) shall be only pursuant to a
7 regular course of instruction in said program and such services are
8 performed only under the supervision and control of a person licensed
9 pursuant to this chapter;

10 (10) The practice of medicine by a licensed physician assistant
11 which practice is performed under the supervision and control of a
12 physician licensed pursuant to this chapter;

13 (11) The practice of medicine, in any part of this state which
14 shares a common border with Canada and which is surrounded on three
15 sides by water, by a physician licensed to practice medicine and
16 surgery in Canada or any province or territory thereof;

17 (12) The administration of nondental anesthesia by a dentist who
18 has completed a residency in anesthesiology at a school of medicine
19 approved by the board of medical examiners, however, a dentist allowed
20 to administer nondental anesthesia shall do so only under authorization
21 of the patient's attending surgeon, obstetrician, or psychiatrist and
22 the (~~(medical disciplinary board)~~) disciplinary authority under chapter
23 18.130 RCW shall have jurisdiction to discipline a dentist practicing
24 under this exemption and enjoin or suspend such dentist from the
25 practice of nondental anesthesia according to the provisions of
26 (~~(chapter 18.72 RCW and)~~) chapter 18.130 RCW;

27 (13) Emergency lifesaving service rendered by a physician's trained
28 mobile intravenous therapy technician, by a physician's trained mobile
29 airway management technician, or by a physician's trained mobile
30 intensive care paramedic, as defined in RCW 18.71.200, if the emergency

1 lifesaving service is rendered under the responsible supervision and
2 control of a licensed physician;

3 (14) The provision of clean, intermittent bladder catheterization
4 for students by public school district employees or private school
5 employees as provided for in RCW 18.88.295 and 28A.210.280.

6 **Sec. 46.** RCW 18.71.095 and 1991 c 3 s 164 are each amended to read
7 as follows:

8 PHYSICIANS--LIMITED LICENSES. The board may, without examination,
9 issue a limited license to persons who possess the qualifications set
10 forth herein:

11 (1) The board may, upon the written request of the secretary of the
12 department of social and health services or the secretary of
13 corrections, issue a limited license to practice medicine in this state
14 to persons who have been accepted for employment by the department of
15 social and health services or the department of corrections as
16 physicians; who are licensed to practice medicine in another state of
17 the United States or in the country of Canada or any province or
18 territory thereof; and who meet all of the qualifications for licensure
19 set forth in RCW 18.71.050.

20 Such license shall permit the holder thereof to practice medicine
21 only in connection with patients, residents, or inmates of the state
22 institutions under the control and supervision of the secretary of the
23 department of social and health services or the department of
24 corrections.

25 (2) The board may issue a limited license to practice medicine in
26 this state to persons who have been accepted for employment by a county
27 or city health department as physicians; who are licensed to practice
28 medicine in another state of the United States or in the country of

1 Canada or any province or territory thereof; and who meet all of the
2 qualifications for licensure set forth in RCW 18.71.050.

3 Such license shall permit the holder thereof to practice medicine
4 only in connection with his or her duties in employment with the city
5 or county health department.

6 (3) Upon receipt of a completed application showing that the
7 applicant meets all of the requirements for licensure set forth in RCW
8 18.71.050 except for completion of two years of postgraduate medical
9 training, and that the applicant has been appointed as a resident
10 physician in a program of postgraduate clinical training in this state
11 approved by the board, the board may issue a limited license to a
12 resident physician. Such license shall permit the resident physician
13 to practice medicine only in connection with his or her duties as a
14 resident physician and shall not authorize the physician to engage in
15 any other form of practice. Each resident physician shall practice
16 medicine only under the supervision and control of a physician licensed
17 in this state, but such supervision and control shall not be construed
18 to necessarily require the personal presence of the supervising
19 physician at the place where services are rendered.

20 (4)(a) Upon nomination by the dean of the school of medicine at the
21 University of Washington or the chief executive officer of a hospital
22 or other appropriate health care facility licensed in the state of
23 Washington, the board may issue a limited license to a physician
24 applicant invited to serve as a teaching-research member of the
25 institution's instructional staff if the sponsoring institution and the
26 applicant give evidence that he or she has graduated from a recognized
27 medical school and has been licensed or otherwise privileged to
28 practice medicine at his or her location of origin. Such license shall
29 permit the recipient to practice medicine only within the confines of
30 the instructional program specified in the application and shall

1 terminate whenever the holder ceases to be involved in that program, or
2 at the end of one year, whichever is earlier. Upon request of the
3 applicant and the institutional authority, the license may be renewed
4 for no more than a total of two years.

5 (b) Upon nomination by the dean of the school of medicine of the
6 University of Washington or the chief executive officer of any hospital
7 or appropriate health care facility licensed in the state of
8 Washington, the board may issue a limited license to an applicant
9 selected by the sponsoring institution to be enrolled in one of its
10 designated departmental or divisional fellowship programs provided that
11 the applicant shall have graduated from a recognized medical school and
12 has been granted a license or other appropriate certificate to practice
13 medicine in the location of the applicant's origin. Such license shall
14 permit the holder only to practice medicine within the confines of the
15 fellowship program to which he or she has been appointed and, upon the
16 request of the applicant and the sponsoring institution, the license
17 may be renewed by the board for no more than a total of two years.

18 All persons licensed under this section shall be subject to the
19 jurisdiction of the ~~((medical disciplinary board))~~ disciplinary
20 authority under chapter 18.130 RCW to the same extent as other members
21 of the medical profession, in accordance with chapter ~~((s 18.72 and))~~
22 18.130 RCW.

23 Persons applying for licensure pursuant to this section shall pay
24 an application fee determined by the secretary as provided in RCW
25 43.70.250 and, in the event the license applied for is issued, a
26 license fee at the rate provided for renewals of licenses generally.
27 Licenses issued hereunder may be renewed annually pursuant to the
28 provisions of RCW 18.71.080. Any person who obtains a limited license
29 pursuant to this section may, without an additional application fee,
30 apply for licensure under this chapter, but shall submit a new

1 application form and comply with all other licensing requirements of
2 this chapter.

3 **Sec. 47.** RCW 18.71.230 and 1986 c 259 s 112 are each amended to
4 read as follows:

5 PHYSICIANS--DISCIPLINARY ACTION AGAINST PERSONS EXEMPT FROM
6 LICENSURE. A right to practice medicine and surgery by an individual
7 in this state pursuant to RCW 18.71.030 (5) through (12) shall be
8 subject to discipline by order of the ((~~board~~)) disciplinary authority
9 under chapter 18.130 RCW upon a finding by the ((~~board~~)) disciplinary
10 authority of an act of unprofessional conduct as defined in RCW
11 18.130.180 or that the individual is unable to practice with reasonable
12 skill or safety due to a mental or physical condition as described in
13 RCW 18.130.170. Such physician shall have the same rights of notice,
14 hearing and judicial review as provided licensed physicians generally
15 ((~~pursuant to~~)) under chapter((~~s 18.72 and~~)) 18.130 RCW.

16 **Sec. 48.** RCW 18.74.090 and 1991 c 3 s 181 are each amended to read
17 as follows:

18 PHYSICAL THERAPY--PROSECUTION FOR VIOLATIONS. A person who is not
19 licensed with the secretary of health as a physical therapist under the
20 requirements of this chapter shall not represent him or herself as
21 being so licensed and shall not use in connection with his or her name
22 the words or letters "P.T.", "R.P.T.", "L.P.T.", "physical therapy",
23 "physiotherapy", "physical therapist" or "physiotherapist", or any
24 other letters, words, signs, numbers, or insignia indicating or
25 implying that he or she is a physical therapist. No person may
26 practice physical therapy without first having a valid license. Nothing
27 in this chapter prohibits any person licensed in this state under any
28 other act from engaging in the practice for which he or she is

1 licensed. It shall be the duty of the prosecuting attorney of each
2 county to prosecute all cases involving a violation of this chapter
3 arising within his or her county. The attorney general may assist in
4 such prosecution and shall appear at all hearings when requested to do
5 so by the (~~board~~) disciplinary authority under chapter 18.130 RCW.

6 **Sec. 49.** RCW 18.83.050 and 1991 c 3 s 196 are each amended to read
7 as follows:

8 PSYCHOLOGISTS--EXAMINING BOARD--POWERS AND DUTIES. (1) The board
9 shall adopt such rules as it deems necessary to carry out its
10 functions.

11 (2) The board shall examine the qualifications of applicants for
12 licensing under this chapter, to determine which applicants are
13 eligible for licensing under this chapter and shall forward to the
14 secretary the names of applicants so eligible.

15 (3) The board shall administer examinations to qualified applicants
16 on at least an annual basis. The board shall determine the subject
17 matter and scope of the examinations and shall require both written and
18 oral examinations of each applicant, except as provided in RCW
19 18.83.170. The board may allow applicants to take the written
20 examination upon the granting of their doctoral degree before
21 completion of their internship for supervised experience.

22 (4) The board shall keep a complete record of its own proceedings,
23 of the questions given in examinations, of the names and qualifications
24 of all applicants, and the names and addresses of all licensed
25 psychologists. The examination paper of such applicant shall be kept
26 on file for a period of at least one year after examination.

27 (~~(5) (The board shall, by rule, adopt a code of ethics for~~
28 ~~psychologists which is designed to protect the public interest.~~

1 ~~(6) The board shall create a disciplinary committee within the~~
2 ~~board for the purposes of hearing, examining, and ruling on complaints~~
3 ~~and evidence of unethical conduct or practices brought by the public,~~
4 ~~other psychologists, organizations, corporations, public or private~~
5 ~~agencies, or officers, agencies, or instrumentalities of state, county,~~
6 ~~or local governments.~~

7 (7)) The board may require that persons licensed under this
8 chapter as psychologists obtain and maintain professional liability
9 insurance in amounts determined by the board to be practicable and
10 reasonably available.

11 **Sec. 50.** RCW 18.83.121 and 1987 c 150 s 52 are each amended to
12 read as follows:

13 PSYCHOLOGISTS--UNPROFESSIONAL CONDUCT. In addition to those acts
14 defined in chapter 18.130 RCW, the ((board)) disciplinary authority
15 under chapter 18.130 RCW may take disciplinary action under RCW
16 18.130.160 for the following reasons:

17 (1) Failing to maintain the confidentiality of information under
18 RCW 18.83.110;

19 (2) Violating the ethical code developed by the board under RCW
20 18.83.050;

21 (3) Failing to inform prospective research subjects or their
22 authorized representatives of the possible serious effects of
23 participation in research; and failing to undertake reasonable efforts
24 to remove possible harmful effects of participation;

25 (4) Practicing in an area of psychology for which the person is
26 clearly untrained or incompetent;

27 (5) Failing to exercise appropriate supervision over persons who
28 practice under the supervision of a psychologist;

1 (6) Using fraud or deceit in the procurement of the psychology
2 license, or knowingly assisting another in the procurement of such a
3 license through fraud or deceit;

4 (7) Failing to maintain professional liability insurance when
5 required by the board;

6 (8) Violating any state statute or administrative rule specifically
7 governing the practice of psychology; or

8 (9) Gross, willful, or continued overcharging for professional
9 services.

10 **Sec. 51.** RCW 18.84.040 and 1991 c 222 s 11 are each amended to
11 read as follows:

12 RADIOLOGIC TECHNOLOGISTS--APPLICATION OF UNIFORM DISCIPLINARY ACT.

13 (1) In addition to any other authority provided by law, the secretary
14 may in consultation with the advisory committee:

15 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
16 implement this chapter;

17 (b) Set all registration, certification, and renewal fees in
18 accordance with RCW 43.70.250;

19 (c) Establish forms and procedures necessary to administer this
20 chapter;

21 (d) Evaluate and designate those schools from which graduation will
22 be accepted as proof of an applicant's eligibility to receive a
23 certificate;

24 (e) Determine whether alternative methods of training are
25 equivalent to formal education, and to establish forms, procedures, and
26 criteria for evaluation of an applicant's alternative training to
27 determine the applicant's eligibility to receive a certificate;

28 (f) Issue a certificate to any applicant who has met the education,
29 training, and conduct requirements for certification; and

1 (g) Issue a registration to an applicant who meets the requirement
2 for a registration.

3 (2) The secretary may hire clerical, administrative, and
4 investigative staff as needed to implement this chapter.

5 (3) The uniform disciplinary act, chapter 18.130 RCW, governs the
6 issuance and denial of registrations and certifications, unregistered
7 and uncertified practice, and the discipline of registrants and
8 certificants under this chapter. (~~The secretary is the disciplining
9 authority under this chapter.~~)

10 **Sec. 52.** RCW 18.88A.050 and 1991 c 16 s 6 and 1991 c 3 s 222 are
11 each reenacted and amended to read as follows:

12 NURSING ASSISTANTS--POWERS OF SECRETARY. In addition to any other
13 authority provided by law, the secretary has the authority to:

14 (1) Set all certification, registration, and renewal fees in
15 accordance with RCW 43.70.250 and to collect and deposit all such fees
16 in the health professions account established under RCW 43.70.320;

17 (2) Establish forms, procedures, and examinations necessary to
18 administer this chapter;

19 (3) Hire clerical, administrative, and investigative staff as
20 needed to implement this chapter;

21 (4) Issue a registration to any applicant who has met the
22 requirements for registration;

23 (5) After January 1, 1990, issue a certificate to any applicant who
24 has met the education, training, and conduct requirements for
25 certification;

26 (6) Maintain the official record for the department of all
27 applicants and persons with registrations and certificates;

28 (~~Exercise disciplinary authority as authorized in chapter
29 18.130 RCW;~~)

1 ~~(8))~~) Deny registration to any applicant who fails to meet
2 requirement for registration;

3 ~~((9))~~) (8) Deny certification to applicants who do not meet the
4 education, training, competency evaluation, and conduct requirements
5 for certification.

6 **Sec. 53.** RCW 18.89.050 and 1991 c 3 s 228 are each amended to read
7 as follows:

8 RESPIRATORY CARE PRACTITIONERS--APPLICATION OF UNIFORM DISCIPLINARY
9 ACT. (1) In addition to any other authority provided by law, the
10 secretary, in consultation with the advisory committee, may:

11 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
12 implement this chapter;

13 (b) Set all certification, examination, and renewal fees in
14 accordance with RCW 43.70.250;

15 (c) Establish forms and procedures necessary to administer this
16 chapter;

17 (d) Issue a certificate to any applicant who has met the education,
18 training, and examination requirements for certification;

19 (e) Hire clerical, administrative, and investigative staff as
20 needed to implement this chapter and hire individuals certified under
21 this chapter to serve as examiners for any practical examinations;

22 (f) Approve those schools from which graduation will be accepted as
23 proof of an applicant's eligibility to take the certification
24 examination;

25 (g) Prepare, grade, and administer, or determine the nature of, and
26 supervise the grading and administration of, examinations for
27 applicants for certification;

28 (h) Determine whether alternative methods of training are
29 equivalent to formal education and establish forms, procedures, and

1 criteria for evaluation of an applicant's alternative training to
2 determine the applicant's eligibility to take the examination;

3 (i) Determine which states have legal credentialing requirements
4 equivalent to those of this state and issue certificates to individuals
5 legally credentialed in those states without examination; and

6 (j) Define and approve any experience requirement for
7 certification.

8 (2) The provisions of chapter 18.130 RCW shall govern the issuance
9 and denial of certificates, uncertified practice, and the disciplining
10 of persons certified under this chapter. (~~The secretary shall be the~~
11 ~~disciplining authority under this chapter.~~)

12 **Sec. 54.** RCW 18.108.085 and 1991 c 3 s 259 are each amended to
13 read as follows:

14 MESSAGE PRACTITIONERS--APPLICATION OF UNIFORM DISCIPLINARY ACT.

15 (1) In addition to any other authority provided by law, the secretary
16 may:

17 (a) Adopt rules, in accordance with chapter 34.05 RCW necessary to
18 implement this chapter;

19 (b) Set all license, examination, and renewal fees in accordance
20 with RCW 43.70.250;

21 (c) Establish forms and procedures necessary to administer this
22 chapter;

23 (d) Issue a license to any applicant who has met the education,
24 training, and examination requirements for licensure; and

25 (e) Hire clerical, administrative, and investigative staff as
26 necessary to implement this chapter, and hire individuals licensed
27 under this chapter to serve as examiners for any practical
28 examinations.

1 (2) The uniform disciplinary act, chapter 18.130 RCW, governs the
2 issuance and denial of licenses and the disciplining of persons under
3 this chapter. ((The secretary shall be the disciplining authority
4 under this chapter.))

5 (3) The secretary shall keep an official record of all proceedings
6 under this chapter, a part of which record shall consist of a register
7 of all applicants for licensure under this chapter, with the result of
8 each application.

9 **Sec. 55.** RCW 18.120.020 and 1989 c 300 s 14 are each amended to
10 read as follows:

11 REGULATION OF HEALTH PROFESSIONS--CRITERIA. The definitions
12 contained in this section shall apply throughout this chapter unless
13 the context clearly requires otherwise.

14 (1) "Applicant group" includes any health professional group or
15 organization, any individual, or any other interested party which
16 proposes that any health professional group not presently regulated be
17 regulated or which proposes to substantially increase the scope of
18 practice of the profession.

19 (2) "Certificate" and "certification" mean a voluntary process by
20 which a statutory regulatory entity grants recognition to an individual
21 who (a) has met certain prerequisite qualifications specified by that
22 regulatory entity, and (b) may assume or use "certified" in the title
23 or designation to perform prescribed health professional tasks.

24 (3) "Grandfather clause" means a provision in a regulatory statute
25 applicable to practitioners actively engaged in the regulated health
26 profession prior to the effective date of the regulatory statute which
27 exempts the practitioners from meeting the prerequisite qualifications
28 set forth in the regulatory statute to perform prescribed occupational
29 tasks.

1 (4) "Health professions" means and includes the following health
2 and health-related licensed or regulated professions and occupations:
3 (~~Podiatry~~) Podiatric medicine and surgery under chapter 18.22 RCW;
4 chiropractic under chapter ~~(s)~~ 18.25 ~~((and 18.26))~~ RCW; dental hygiene
5 under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing
6 opticians under chapter 18.34 RCW; hearing aids under chapter 18.35
7 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral
8 directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW;
9 nursing home administration under chapter 18.52 RCW; optometry under
10 chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW;
11 osteopathy and osteopathic medicine and surgery under chapters 18.57
12 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
13 under chapters 18.71~~((r))~~ and 18.71A~~((r, and 18.72))~~ RCW; emergency
14 medicine under chapter 18.73 RCW; physical therapy under chapter 18.74
15 RCW; practical nurses under chapter 18.78 RCW; psychologists under
16 chapter 18.83 RCW; registered nurses under chapter 18.88 RCW;
17 occupational therapists licensed pursuant to chapter 18.59 RCW;
18 respiratory care practitioners certified under chapter 18.89 RCW;
19 veterinarians and animal technicians under chapter 18.92 RCW; health
20 care assistants under chapter 18.135 RCW; massage practitioners under
21 chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW;
22 persons registered or certified under chapter 18.19 RCW; dietitians and
23 nutritionists certified by chapter 18.138 RCW; radiologic technicians
24 under chapter 18.84 RCW; and nursing assistants registered or certified
25 under chapter 18.88A RCW.

26 (5) "Inspection" means the periodic examination of practitioners by
27 a state agency in order to ascertain whether the practitioners'
28 occupation is being carried out in a fashion consistent with the public
29 health, safety, and welfare.

1 (6) "Legislative committees of reference" means the standing
2 legislative committees designated by the respective rules committees of
3 the senate and house of representatives to consider proposed
4 legislation to regulate health professions not previously regulated.

5 (7) "License," "licensing," and "licensure" mean permission to
6 engage in a health profession which would otherwise be unlawful in the
7 state in the absence of the permission. A license is granted to those
8 individuals who meet prerequisite qualifications to perform prescribed
9 health professional tasks and for the use of a particular title.

10 (8) "Professional license" means an individual, nontransferable
11 authorization to carry on a health activity based on qualifications
12 which include: (a) Graduation from an accredited or approved program,
13 and (b) acceptable performance on a qualifying examination or series of
14 examinations.

15 (9) "Practitioner" means an individual who (a) has achieved
16 knowledge and skill by practice, and (b) is actively engaged in a
17 specified health profession.

18 (10) "Public member" means an individual who is not, and never was,
19 a member of the health profession being regulated or the spouse of a
20 member, or an individual who does not have and never has had a material
21 financial interest in either the rendering of the health professional
22 service being regulated or an activity directly related to the
23 profession being regulated.

24 (11) "Registration" means the formal notification which, prior to
25 rendering services, a practitioner shall submit to a state agency
26 setting forth the name and address of the practitioner; the location,
27 nature and operation of the health activity to be practiced; and, if
28 required by the regulatory entity, a description of the service to be
29 provided.

1 (12) "Regulatory entity" means any board, commission, agency,
2 division, or other unit or subunit of state government which regulates
3 one or more professions, occupations, industries, businesses, or other
4 endeavors in this state.

5 (13) "State agency" includes every state office, department, board,
6 commission, regulatory entity, and agency of the state, and, where
7 provided by law, programs and activities involving less than the full
8 responsibility of a state agency.

9 **Sec. 56.** RCW 18.122.150 and 1991 c 3 s 268 are each amended to
10 read as follows:

11 REGULATION OF HEALTH PROFESSIONALS--APPLICATION OF UNIFORM
12 DISCIPLINARY ACT. The uniform disciplinary act, chapter 18.130 RCW,
13 shall govern the issuance and denial of credentials, unauthorized
14 practice, and the discipline of persons credentialed under this
15 chapter. (~~The secretary shall be the disciplining authority under~~
16 ~~this chapter.~~)

17 **Sec. 57.** RCW 18.130.020 and 1989 1st ex.s. c 9 s 312 are each
18 amended to read as follows:

19 UNIFORM DISCIPLINARY ACT--DEFINITIONS. Unless the context clearly
20 requires otherwise, the definitions in this section apply throughout
21 this chapter.

22 (1) "Committee" means the health professional quality assurance
23 committee.

24 (2) "Disciplining authority" or "disciplinary authority" means
25 (~~(a) the board of medical examiners, the board of dental examiners,~~
26 ~~and the board of chiropractic examiners with respect to applicants for~~
27 ~~a license for the respective professions, (b) the medical disciplinary~~
28 ~~board, the dental disciplinary board, and the chiropractic disciplinary~~

1 board with respect to holders of licenses for the respective
2 professions, or (c) the agency or board having the authority to take
3 disciplinary action against a holder of, or applicant for, a
4 professional or business license upon a finding of a violation of this
5 chapter or a chapter specified under RCW 18.130.040)) the health
6 professional quality assurance committee, and for persons subject to
7 licensure under chapter 18.39 RCW, the board of funeral directors and
8 embalmers.

9 ((+2)) (3) "Department" means the department of health.

10 ((+3)) (4) "Secretary" means the secretary of health or the
11 secretary's designee.

12 ((+4)) (5) "Board" means ((any of those boards specified in RCW
13 18.130.040)) the professional licensing boards of professions specified
14 under RCW 18.130.040(2)(b) and the board of funeral directors and
15 embalmers.

16 ((+5)) (6) "Unlicensed practice" means:

17 (a) Practicing a profession or operating a business identified in
18 RCW 18.130.040 without holding a valid, unexpired, unrevoked, and
19 unsuspended license to do so; or

20 (b) Representing to a consumer, through offerings, advertisements,
21 or use of a professional title or designation, that the individual is
22 qualified to practice a profession or operate a business identified in
23 RCW 18.130.040, without holding a valid, unexpired, unrevoked, and
24 unsuspended license to do so.

25 ((+6)) (7) "Disciplinary action" means sanctions identified in RCW
26 18.130.160.

27 ((+7)) (8) "Practice review" means an investigative audit of
28 records related to the complaint, without prior identification of
29 specific patient or consumer names, to determine whether unprofessional
30 conduct may have been committed.

1 ~~((8))~~ (9) "Health agency" means city and county health
2 departments and the department of health.

3 ~~((9))~~ (10) "License," "licensing," and "licensure" shall be
4 deemed equivalent to the terms "license," "licensing," "licensure,"
5 "certificate," "certification," and "registration" as those terms are
6 defined in RCW 18.120.020.

7 **Sec. 58.** RCW 18.130.040 and 1990 c 3 s 810 are each amended to
8 read as follows:

9 UNIFORM DISCIPLINARY ACT--APPLICATION--AUTHORITY OF COMMITTEE. (1)
10 This chapter applies only to the ~~((secretary and the boards having~~
11 ~~jurisdiction in relation to the))~~ professions licensed under the
12 chapters specified in this section. This chapter does not apply to any
13 business or profession not licensed under the chapters specified in
14 this section.

15 (2)(a) The ~~((secretary))~~ committee has authority under this chapter
16 in relation to the following professions:

17 (i) Dispensing opticians licensed under chapter 18.34 RCW;

18 (ii) Naturopaths licensed under chapter 18.36A RCW;

19 (iii) Midwives licensed under chapter 18.50 RCW;

20 (iv) Ocularists licensed under chapter 18.55 RCW;

21 (v) Massage operators and businesses licensed under chapter 18.108
22 RCW;

23 (vi) Dental hygienists licensed under chapter 18.29 RCW;

24 (vii) Acupuncturists certified under chapter 18.06 RCW;

25 (viii) Radiologic technologists certified and x-ray technicians
26 registered under chapter 18.84 RCW;

27 (ix) Respiratory care practitioners certified under chapter 18.89
28 RCW;

29 (x) Persons registered or certified under chapter 18.19 RCW;

- 1 (xi) Persons registered as nursing pool operators;
- 2 (xii) Nursing assistants registered or certified under chapter
- 3 ~~((18.52B))~~ 18.88A RCW;
- 4 (xiii) Dietitians and nutritionists certified under chapter 18.138
- 5 RCW; and
- 6 (xiv) Sex offender treatment providers certified under chapter
- 7 18.155 RCW.
- 8 (b) ~~((The boards having authority under this chapter are as~~
- 9 ~~follows:~~
- 10 (i) ~~The podiatry board as established in chapter 18.22 RCW;~~
- 11 (ii) ~~The chiropractic disciplinary board as established in chapter~~
- 12 ~~18.26 RCW governing licenses issued under chapter 18.25 RCW;~~
- 13 (iii) ~~The dental disciplinary board as established in chapter 18.32~~
- 14 ~~RCW;~~
- 15 (iv) ~~The council on hearing aids as established in chapter 18.35~~
- 16 ~~RCW;~~
- 17 (v) ~~The board of funeral directors and embalmers as established in~~
- 18 ~~chapter 18.39 RCW;~~
- 19 (vi) ~~The board of examiners for nursing home administrators as~~
- 20 ~~established in chapter 18.52 RCW;~~
- 21 (vii) ~~The optometry board as established in chapter 18.54 RCW~~
- 22 ~~governing licenses issued under chapter 18.53 RCW;~~
- 23 (viii) ~~The board of osteopathic medicine and surgery as established~~
- 24 ~~in chapter 18.57 RCW governing licenses issued under chapters 18.57 and~~
- 25 ~~18.57A RCW;~~
- 26 (ix) ~~The medical disciplinary board as established in chapter 18.72~~
- 27 ~~RCW governing licenses and registrations issued under chapters 18.71~~
- 28 ~~and 18.71A RCW;~~
- 29 (x) ~~The board of physical therapy as established in chapter 18.74~~
- 30 ~~RCW;~~

1 ~~(xi) The board of occupational therapy practice as established in~~
2 ~~chapter 18.59 RCW;~~

3 ~~(xii) The board of practical nursing as established in chapter~~
4 ~~18.78 RCW;~~

5 ~~(xiii) The examining board of psychology and its disciplinary~~
6 ~~committee as established in chapter 18.83 RCW;~~

7 ~~(xiv) The board of nursing as established in chapter 18.88 RCW; and~~
8 ~~(xv) The veterinary board of governors as established in chapter~~
9 ~~18.92 RCW)) In addition, the committee has authority under this chapter~~
10 ~~in relation to the following professions:~~

11 (i) Podiatric physicians and surgeons licensed under chapter 18.22
12 RCW;

13 (ii) Chiropractors licensed under chapter 18.25 RCW;

14 (iii) Dentists licensed under chapter 18.32 RCW;

15 (iv) Hearing aide fitters and dispensers licensed under chapter
16 18.35 RCW;

17 (v) Nursing home administrators licensed under chapter 18.52 RCW;

18 (vi) Optometrists licensed under chapters 18.53 and 18.54 RCW;

19 (vii) Osteopathic physicians and physician assistants licensed
20 under chapters 18.57 and 18.57A RCW;

21 (viii) Physicians and physician assistants licensed under chapters
22 18.71 and 18.71A RCW;

23 (ix) Physical therapists licensed under chapter 18.74 RCW;

24 (x) Licensed practical nurses licensed under chapter 18.78 RCW;

25 (xi) Occupational therapists licensed under chapter 18.59 RCW;

26 (xii) Psychologists licensed under chapter 18.83 RCW;

27 (xiii) Veterinarians licensed under chapter 19.92 RCW; and

28 (xiv) Pharmacists licensed and pharmacy assistants certified under
29 chapters 18.64 and 18.64A RCW.

1 (3) In addition to the authority to discipline license holders, the
2 disciplining authority has the authority to grant or deny licenses
3 based on the conditions and criteria established in this chapter and
4 the chapters specified in subsection (2) of this section. (~~However,~~
5 ~~the board of chiropractic examiners has authority over issuance and~~
6 ~~denial of licenses provided for in chapter 18.25 RCW, the board of~~
7 ~~dental examiners has authority over issuance and denial of licenses~~
8 ~~provided for in RCW 18.32.040, and the board of medical examiners has~~
9 ~~authority over issuance and denial of licenses and registrations~~
10 ~~provided for in chapters 18.71 and 18.71A RCW.)) This chapter also
11 governs any investigation, hearing, or proceeding relating to denial of
12 licensure or issuance of a license conditioned on the applicant's
13 compliance with an order entered pursuant to RCW 18.130.160 by the
14 disciplining authority.~~

15 **Sec. 59.** RCW 18.130.050 and 1987 c 150 s 2 are each amended to
16 read as follows:

17 UNIFORM DISCIPLINARY ACT--DISCIPLINARY AUTHORITY--RULE MAKING--
18 AUTHORITY. The disciplining authority has the following authority:

19 (1) To adopt, amend, and rescind such rules as are deemed necessary
20 to carry out this chapter. For purposes of rule making, the
21 disciplinary authority shall consist of the nonrotating members of the
22 committee;

23 (2) To investigate all complaints or reports of unprofessional
24 conduct as defined in this chapter and to hold hearings as provided in
25 this chapter;

26 (3) To issue subpoenas and administer oaths in connection with any
27 investigation, hearing, or proceeding held under this chapter;

1 (4) To take or cause depositions to be taken and use other
2 discovery procedures as needed in any investigation, hearing, or
3 proceeding held under this chapter;

4 (5) To compel attendance of witnesses at hearings;

5 (6) In the course of investigating a complaint or report of
6 unprofessional conduct, to conduct practice reviews;

7 (7) To take emergency action ordering summary suspension of a
8 license, or restriction or limitation of the licensee's practice
9 pending proceedings by the disciplining authority;

10 (8) To use the office of administrative hearings as authorized in
11 chapter 34.12 RCW to conduct hearings. However, the disciplining
12 authority shall make the final decision regarding disposition of the
13 license;

14 (9) To use individual members of the ~~((boards))~~ disciplinary
15 authority to direct investigations. However, the member of the
16 ~~((board))~~ disciplinary authority shall not subsequently participate in
17 the hearing of the case;

18 (10) To enter into contracts for professional services determined
19 to be necessary for adequate enforcement of this chapter;

20 (11) To contract with licensees or other persons or organizations
21 to provide services necessary for the monitoring and supervision of
22 licensees who are placed on probation, whose professional activities
23 are restricted, or who are for any authorized purpose subject to
24 monitoring by the disciplining authority;

25 ~~((To adopt standards of professional conduct or practice;~~

26 ~~(13) To grant or deny license applications, and))~~ In the event of
27 a finding of unprofessional conduct by an applicant or license holder,
28 to impose any sanction against a license applicant or license holder
29 provided by this chapter;

1 ~~((14))~~ (13) To enter into an assurance of discontinuance in lieu
2 of issuing a statement of charges or conducting a hearing. The
3 assurance shall consist of a statement of the law in question and an
4 agreement to not violate the stated provision. The applicant or
5 license holder shall not be required to admit to any violation of the
6 law, nor shall the assurance be construed as such an admission.
7 Violation of an assurance under this subsection is grounds for
8 disciplinary action;

9 ~~((15))~~ (14) To designate individuals authorized to sign subpoenas
10 and statements of charges;

11 (15) To interpret rules adopted under section 5 of this act.

12 **Sec. 60.** RCW 18.130.060 and 1991 c 3 s 269 are each amended to
13 read as follows:

14 UNIFORM DISCIPLINARY ACT--AUTHORITY OF SECRETARY. In addition to
15 the authority specified in RCW 18.130.050, the secretary has the
16 following additional authority:

17 (1) To employ such investigative, administrative, and clerical
18 staff as necessary for the enforcement of this chapter, including such
19 legal and health professional expert staff the committee has requested
20 as necessary to advise and assist it in performing its duties. The
21 committee and staff employed to enforce this chapter shall be organized
22 as a division within the department;

23 (2) ~~((Upon the request of a board, to appoint not more than three~~
24 ~~pro tem members for the purpose of participating as members of one or~~
25 ~~more committees of the board in connection with proceedings~~
26 ~~specifically identified in the request. Individuals so appointed must~~
27 ~~meet the same minimum qualifications as regular members of the board.~~
28 ~~While serving as board members pro tem, persons so appointed have all~~
29 ~~the powers, duties, and immunities, and are entitled to the emoluments,~~

1 including travel expenses in accordance with RCW 43.03.050 and
2 43.03.060, of regular members of the board. The chairperson of a
3 committee shall be a regular member of the board appointed by the board
4 chairperson. Committees have authority to act as directed by the board
5 with respect to all matters concerning the review, investigation, and
6 adjudication of all complaints, allegations, charges, and matters
7 subject to the jurisdiction of the board. The authority to act through
8 committees does not restrict the authority of the board to act as a
9 single body at any phase of proceedings within the board's
10 jurisdiction. Board committees may make interim orders and issue final
11 decisions with respect to matters and cases delegated to the committee
12 by the board. Final decisions may be appealed as provided in chapter
13 34.05 RCW, the Administrative Procedure Act)) To employ with the
14 consent of the disciplinary authority an executive director of the
15 health professional quality assurance committee. Such person shall be
16 exempt from provisions of chapter 41.06 RCW and may only be removed
17 with approval of the secretary and the committee;

18 (3) To establish fees to be paid for witnesses, expert witnesses,
19 and consultants used in any investigation and to establish fees to
20 witnesses in any ((agency)) disciplinary authority adjudicative
21 proceeding as authorized by RCW 34.05.446; and

22 (4) To conduct investigations and practice reviews at the direction
23 of the disciplining authority and to issue subpoenas, administer oaths,
24 and take depositions in the course of conducting those investigations
25 and practice reviews at the direction of the disciplining authority.

26 **Sec. 61.** RCW 18.130.090 and 1986 c 259 s 6 are each amended to
27 read as follows:

28 UNIFORM DISCIPLINARY ACT--STATEMENT OF CHARGE. ((+1)) If the
29 disciplining authority determines, upon investigation, that there is

1 reason to believe a violation of RCW 18.130.180 has occurred, a
2 statement of charge or charges shall be prepared and served upon the
3 license holder or applicant at the earliest practical time. The
4 statement of charge or charges shall be accompanied by a notice that
5 the license holder or applicant may request a hearing to contest the
6 charge or charges. ~~((The license holder or applicant must file a
7 request for hearing with the disciplining authority within twenty days
8 after being served the statement of charges. The failure to request a
9 hearing constitutes a default, whereupon the disciplining authority may
10 enter a decision on the basis of the facts available to it.~~

11 ~~(2) If a hearing is requested, the time of the hearing shall be
12 fixed by the disciplining authority as soon as convenient, but the
13 hearing shall not be held earlier than thirty days after service of the
14 charges upon the license holder or applicant. A notice of hearing
15 shall be issued at least twenty days prior to the hearing, specifying
16 the time, date, and place of the hearing. The notice shall also notify
17 the license holder or applicant that a record of the proceeding will be
18 kept, that he or she will have the opportunity to appear personally and
19 to have counsel present, with the right to produce witnesses, who will
20 be subject to cross examination, and evidence in his or her own behalf,
21 to cross-examine witnesses testifying against him or her, to examine
22 such documentary evidence as may be produced against him or her, to
23 conduct depositions, and to have subpoenas issued by the disciplining
24 authority.))~~

25 **Sec. 62.** RCW 18.130.165 and 1987 c 150 s 4 are each amended to
26 read as follows:

27 UNIFORM DISCIPLINARY ACT--ENFORCEMENT OF FINE. Where an order for
28 payment of a fine is made as a result of a hearing under ((RCW
29 18.130.100)) chapter 34.05 RCW and timely payment is not made as

1 directed in the final order, the disciplining authority may enforce the
2 order for payment in the superior court in the county in which the
3 hearing was held. This right of enforcement shall be in addition to
4 any other rights the disciplining authority may have as to any licensee
5 ordered to pay a fine but shall not be construed to limit a licensee's
6 ability to seek judicial review under ((RCW 18.130.140)) chapter 34.05
7 RCW.

8 In any action for enforcement of an order of payment of a fine, the
9 disciplining authority's order is conclusive proof of the validity of
10 the order of payment of a fine and the terms of payment.

11 **Sec. 63.** RCW 18.130.175 and 1991 c 3 s 270 are each amended to
12 read as follows:

13 UNIFORM DISCIPLINARY ACT--VOLUNTARY SUBSTANCE ABUSE MONITORING
14 PROGRAMS. (1) In lieu of disciplinary action under RCW 18.130.160 and
15 if the disciplining authority determines that the unprofessional
16 conduct may be the result of substance abuse, the disciplining
17 authority may refer the license holder to a voluntary substance abuse
18 monitoring program approved by the disciplining authority.

19 The cost of the treatment shall be the responsibility of the
20 license holder, but the responsibility does not preclude payment by an
21 employer, existing insurance coverage, or other sources. Primary
22 alcoholism or drug treatment shall be provided by approved treatment
23 facilities under RCW 70.96A.020(2): PROVIDED, That nothing shall
24 prohibit the disciplining authority from approving additional services
25 and programs as an adjunct to primary alcoholism or drug treatment.
26 The disciplining authority may also approve the use of out-of-state
27 programs. Referral of the license holder to the program shall be done
28 only with the consent of the license holder. Referral to the program
29 may also include probationary conditions for a designated period of

1 time. If the license holder does not consent to be referred to the
2 program or does not successfully complete the program, the disciplining
3 authority may take appropriate action under RCW 18.130.160.

4 (2) In addition to approving substance abuse monitoring programs
5 that may receive referrals from the disciplining authority, the
6 disciplining authority may establish by rule requirements for
7 participation of license holders who are not being investigated or
8 monitored by the disciplining authority for substance abuse. License
9 holders voluntarily participating in the approved programs without
10 being referred by the disciplining authority shall not be subject to
11 disciplinary action under RCW 18.130.160 for their substance abuse, and
12 shall not have their participation made known to the disciplining
13 authority, if they meet the requirements of this section and the
14 program in which they are participating.

15 (3) The license holder shall sign a waiver allowing the program to
16 release information to the disciplining authority if the licensee does
17 not comply with the requirements of this section or is unable to
18 practice with reasonable skill or safety. The substance abuse program
19 shall report to the disciplining authority any license holder who fails
20 to comply with the requirements of this section or the program or who,
21 in the opinion of the program, is unable to practice with reasonable
22 skill or safety. License holders shall report to the disciplining
23 authority if they fail to comply with this section or do not complete
24 the program's requirements. License holders may, upon the agreement of
25 the program and disciplining authority, reenter the program if they
26 have previously failed to comply with this section.

27 (4) The treatment and pretreatment records of license holders
28 referred to or voluntarily participating in approved programs shall be
29 confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and

1 shall not be subject to discovery by subpoena or admissible as evidence
2 except for monitoring records reported to the disciplining authority
3 for cause as defined in subsection (3) of this section. Monitoring
4 records relating to license holders referred to the program by the
5 disciplining authority or relating to license holders reported to the
6 disciplining authority by the program for cause, shall be released to
7 the disciplining authority at the request of the disciplining
8 authority. Records held by the disciplining authority under this
9 section shall be exempt from RCW 42.17.250 through 42.17.450 and shall
10 not be subject to discovery by subpoena except by the license holder.

11 (5) "Substance abuse," as used in this section, means the
12 impairment, as determined by the disciplining authority, of a license
13 holder's professional services by an addiction to, a dependency on, or
14 the use of alcohol, legend drugs, or controlled substances.

15 (6) This section does not affect an employer's right or ability to
16 make employment-related decisions regarding a license holder. This
17 section does not restrict the authority of the disciplining authority
18 to take disciplinary action for any other unprofessional conduct.

19 (7) A person who, in good faith, reports information or takes
20 action in connection with this section is immune from civil liability
21 for reporting information or taking the action.

22 (a) The immunity from civil liability provided by this section
23 shall be liberally construed to accomplish the purposes of this section
24 and the persons entitled to immunity shall include:

- 25 (i) An approved monitoring treatment program;
- 26 (ii) The professional association operating the program;
- 27 (iii) Members, employees, or agents of the program or association;
- 28 (iv) Persons reporting a license holder as being impaired or
29 providing information about the license holder's impairment; and

1 (v) Professionals supervising or monitoring the course of the
2 impaired license holder's treatment or rehabilitation.

3 (b) The immunity provided in this section is in addition to any
4 other immunity provided by law.

5 ~~((8) In addition to health care professionals governed by this
6 chapter, this section also applies to pharmacists under chapter 18.64
7 RCW and pharmacy assistants under chapter 18.64A RCW. For that
8 purpose, the board of pharmacy shall be deemed to be the disciplining
9 authority and the substance abuse monitoring program shall be in lieu
10 of disciplinary action under RCW 18.64.160 or 18.64A.050. The board of
11 pharmacy shall adjust license fees to offset the costs of this
12 program.))~~

13 **Sec. 64.** RCW 18.130.185 and 1987 c 150 s 8 are each amended to
14 read as follows:

15 UNIFORM DISCIPLINARY ACT--INJUNCTIVE RELIEF FOR VIOLATIONS OF RCW
16 18.130.170 AND 18.130.180. If a person or business regulated by this
17 chapter violates RCW 18.130.170 or 18.130.180, the attorney general,
18 any prosecuting attorney, the ~~((director, the board))~~ disciplinary
19 authority, or any other person may maintain an action in the name of
20 the state of Washington to enjoin the person from committing the
21 violations. The injunction shall not relieve the offender from
22 criminal prosecution, but the remedy by injunction shall be in addition
23 to the liability of the offender to criminal prosecution and
24 disciplinary action.

25 **Sec. 65.** RCW 18.130.190 and 1991 c 3 s 271 are each amended to
26 read as follows:

27 UNIFORM DISCIPLINARY ACT--PRACTICE WITHOUT LICENSE. (1) The
28 ~~((secretary))~~ disciplinary authority shall investigate complaints

1 concerning practice by unlicensed persons of a profession or business
2 for which a license is required by the chapters specified in RCW
3 18.130.040. In the investigation of the complaints, the ((secretary))
4 disciplinary authority shall have the same authority as provided the
5 ((secretary)) disciplinary authority under RCW 18.130.050. The
6 ((secretary)) disciplinary authority shall issue a cease and desist
7 order to a person after notice and hearing and upon a determination
8 that the person has violated this subsection. If the ((secretary))
9 disciplinary authority makes a written finding of fact that the public
10 interest will be irreparably harmed by delay in issuing an order, the
11 ((secretary)) disciplinary authority may issue a temporary cease and
12 desist order. The cease and desist order shall not relieve the person
13 so practicing or operating a business without a license from criminal
14 prosecution therefor, but the remedy of a cease and desist order shall
15 be in addition to any criminal liability. The cease and desist order
16 is conclusive proof of unlicensed practice and may be enforced under
17 RCW 7.21.060. This method of enforcement of the cease and desist order
18 may be used in addition to, or as an alternative to, any provisions for
19 enforcement of agency orders set out in chapter 34.05 RCW.

20 (2) The attorney general, a county prosecuting attorney, the
21 ((secretary, a board)) disciplinary authority, or any person may in
22 accordance with the laws of this state governing injunctions, maintain
23 an action in the name of this state to enjoin any person practicing a
24 profession or business for which a license is required by the chapters
25 specified in RCW 18.130.040 without a license from engaging in such
26 practice or operating such business until the required license is
27 secured. However, the injunction shall not relieve the person so
28 practicing or operating a business without a license from criminal
29 prosecution therefor, but the remedy by injunction shall be in addition
30 to any criminal liability.

1 (3) Unlicensed practice of a profession or operating a business for
2 which a license is required by the chapters specified in RCW
3 18.130.040, unless otherwise exempted by law, constitutes a gross
4 misdemeanor. All fees, fines, forfeitures, and penalties collected or
5 assessed by a court because of a violation of this section shall be
6 remitted to the health professions account.

7 **Sec. 66.** RCW 18.130.270 and 1991 c 332 s 3 are each amended to
8 read as follows:

9 UNIFORM DISCIPLINARY ACT--CONTINUING COMPETENCY PILOT PROJECTS.
10 The ~~((disciplinary))~~ health professional licensing authorities are
11 authorized to develop and require licensees' participation in
12 continuing competency pilot projects for the purpose of developing
13 flexible, cost-efficient, effective, and geographically accessible
14 competency assurance methods. The secretary shall establish criteria
15 for development of pilot projects ~~((and shall select the disciplinary~~
16 ~~authorities that will participate from among the professions requesting~~
17 ~~participation))~~. The department shall administer the projects in
18 mutual cooperation with the ~~((disciplinary—authority))~~ health
19 professional licensing authorities under this title and shall allot and
20 administer the budget for each pilot project. The department shall
21 report to the legislature in January of each odd-numbered year
22 concerning the progress and findings of the projects and shall make
23 recommendations on the expansion of continued competency requirements
24 to other licensed health professions.

25 Each ~~((disciplinary—authority))~~ board or the secretary shall
26 establish its pilot project in rule and may support the projects from
27 a surcharge on each of the affected profession's license renewal in an
28 amount established by the secretary.

1 **Sec. 67.** RCW 18.130.300 and 1984 c 279 s 21 are each amended to
2 read as follows:

3 UNIFORM DISCIPLINARY ACT--PERSONS IMMUNE FROM CIVIL LIABILITY. The
4 (~~(director, members of the boards,)~~) disciplinary authority or
5 individuals acting on their behalf are immune from suit in any civil
6 action(~~(, civil or criminal,)~~) based on any disciplinary proceedings or
7 other official acts performed in the course of their duties.

8 **Sec. 68.** RCW 18.135.070 and 1984 c 281 s 7 are each amended to
9 read as follows:

10 HEALTH CARE ASSISTANTS--COMPLAINTS--VIOLATIONS--INVESTIGATIONS--
11 DISCIPLINARY ACTION. The licensing authority of health care facilities
12 or the disciplinary (~~(board)~~) authority under chapter 18.130 RCW of the
13 delegating or supervising health care practitioner shall investigate
14 all complaints or allegations of violations of proper certification of
15 a health care assistant or violations of delegation of authority or
16 supervision. A substantiated violation shall constitute sufficient
17 cause for disciplinary action by the licensing authority of a health
18 care facility or the disciplinary (~~(board)~~) authority under chapter
19 18.130 RCW of the health care practitioner.

20 **Sec. 69.** RCW 18.135.080 and 1991 c 3 s 277 are each amended to
21 read as follows:

22 HEALTH CARE ASSISTANTS--VIOLATIONS. The (~~(secretary or the~~
23 ~~secretary's designee)~~) disciplinary authority under chapter 18.130 RCW
24 shall decertify a health care assistant based on a finding that the
25 assistant has obtained certification through misrepresentation or
26 concealment of a material fact or has engaged in unsafe or negligent
27 practices.

1 **Sec. 70.** RCW 18.138.070 and 1991 c 3 s 284 are each amended to
2 read as follows:

3 DIETITIANS AND NUTRITIONISTS--AUTHORITY OF SECRETARY. In addition
4 to any other authority provided by law, the secretary may:

5 (1) Adopt rules in accordance with chapter 34.05 RCW necessary to
6 implement this chapter;

7 (2) Establish forms necessary to administer this chapter;

8 (3) Issue a certificate to an applicant who has met the
9 requirements for certification and deny a certificate to an applicant
10 who does not meet the minimum qualifications;

11 (4) Hire clerical, administrative, and investigative staff as
12 needed to implement and administer this chapter and hire individuals,
13 including those certified under this chapter, to serve as consultants
14 as necessary to implement and administer this chapter;

15 (5) Maintain the official departmental record of all applicants and
16 certificate holders;

17 ~~(6) ((Conduct a hearing, pursuant to chapter 34.05 RCW, on an
18 appeal of a denial of certification based on the applicant's failure to
19 meet the minimum qualifications for certification;~~

20 ~~(7) Investigate alleged violations of this chapter and consumer
21 complaints involving the practice of persons representing themselves as
22 certified dietitians or certified nutritionists;~~

23 ~~(8) Issue subpoenas, statements of charges, statements of intent to
24 deny certifications, and orders and delegate in writing to a designee
25 the authority to issue subpoenas, statements of charges, and statements
26 on intent to deny certifications;~~

27 ~~(9) Conduct disciplinary proceedings, impose sanctions, and assess
28 fines for violations of this chapter or any rules adopted under it in
29 accordance with chapter 34.05 RCW;~~

1 ~~(10))~~) Set all certification, renewal, and late renewal fees in
2 accordance with RCW 43.70.250; and
3 ~~((11))~~) (7) Set certification expiration dates and renewal periods
4 for all certifications under this chapter.

5 **Sec. 71.** RCW 18.138.090 and 1991 c 3 s 286 are each amended to
6 read as follows:

7 DIETITIANS AND NUTRITIONISTS--APPLICATION OF UNIFORM DISCIPLINARY
8 ACT. The uniform disciplinary act, chapter 18.130 RCW, governs the
9 issuance and denial of certificates, unauthorized practice(~~(s)~~), and
10 the disciplining of certificate holders under this chapter. (~~The~~
11 ~~secretary shall be the disciplining authority under this chapter.~~)

12 **Sec. 72.** RCW 18.155.040 and 1990 c 3 s 804 are each amended to
13 read as follows:

14 SEX OFFENDER TREATMENT PROVIDERS--SECRETARY--AUTHORITY. In
15 addition to any other authority provided by law, the secretary shall
16 have the following authority:

17 (1) To set all fees required in this chapter in accordance with RCW
18 43.70.250;

19 (2) To establish forms necessary to administer this chapter;

20 (3) To issue a certificate to any applicant who has met the
21 education, training, and examination requirements for certification and
22 deny a certificate to applicants who do not meet the minimum
23 qualifications for certification. Proceedings concerning the denial of
24 certificates based on unprofessional conduct or impaired practice shall
25 be governed by the uniform disciplinary act, chapter 18.130 RCW;

26 (4) To hire clerical, administrative, and investigative staff as
27 needed to implement and administer this chapter and to hire individuals

1 including those certified under this chapter to serve as examiners or
2 consultants as necessary to implement and administer this chapter;

3 (5) To maintain the official department record of all applicants
4 and certifications;

5 (6) To conduct a hearing on an appeal of a denial of a certificate
6 on the applicant's failure to meet the minimum qualifications for
7 certification. The hearing shall be conducted pursuant to chapter
8 34.05 RCW;

9 ~~(7) ((To issue subpoenas, statements of charges, statements of
10 intent to deny certificates, and orders and to delegate in writing to
11 a designee the authority to issue subpoenas, statements of charges, and
12 statements of intent to deny certificates;~~

13 ~~(8))~~ To determine the minimum education, work experience, and
14 training requirements for certification, including but not limited to
15 approval of educational programs;

16 ~~((+9))~~ (8) To prepare and administer or approve the preparation
17 and administration of examinations for certification;

18 ~~((+10))~~ (9) To establish by rule the procedure for appeal of an
19 examination failure;

20 ~~((+11))~~ (10) To adopt rules implementing a continuing competency
21 program;

22 ~~((+12))~~ (11) To adopt rules in accordance with chapter 34.05 RCW
23 as necessary to implement this chapter.

24 **Sec. 73.** RCW 43.70.220 and 1989 1st ex.s. c 9 s 301 are each
25 amended to read as follows:

26 DEPARTMENT OF HEALTH--TRANSFER OF POWERS FROM DEPARTMENT OF
27 LICENSING. The powers and duties of the department of licensing and
28 the director of licensing under the following statutes are hereby
29 transferred to the department of health and the secretary of health:

1 Chapters 18.06, 18.19, 18.22, 18.25, (~~(18.26)~~) 18.29, 18.32, 18.34,
2 18.35, 18.36A, 18.50, 18.52, (~~(18.52A, 18.52B)~~) 18.52C, 18.53, 18.54,
3 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, (~~(18.72)~~) 18.74, 18.78,
4 18.83, 18.84, 18.88, 18.89, 18.92, 18.108, 18.135, and 18.138 RCW.
5 More specifically, the health professions regulatory programs and
6 services presently administered by the department of licensing are
7 hereby transferred to the department of health.

8 **Sec. 74.** RCW 43.70.240 and 1989 1st ex.s. c 9 s 304 are each
9 amended to read as follows:

10 DEPARTMENT OF HEALTH--WRITTEN OPERATING AGREEMENTS. The secretary
11 and each of the professional licensing (~~(and disciplinary)~~) boards
12 under the administration of the department shall enter into written
13 operating agreements on administrative procedures with input from the
14 regulated profession and the public. The intent of these agreements is
15 to provide a process for the department to consult each board on
16 administrative matters and to ensure that the administration and staff
17 functions effectively enable each board to fulfill its statutory
18 responsibilities. The agreements shall include, but not be limited to,
19 the following provisions:

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

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

28 The secretary shall report to the health care committees of the
29 legislature, on or before February 28, 1990, on the implementation of

1 the written operating agreement and the need, if any, for modification
2 of this section.

3 **Sec. 75.** RCW 43.70.300 and 1989 1st ex.s. c 9 s 318 are each
4 amended to read as follows:

5 SECRETARY OR DESIGNEE EX OFFICIO MEMBER OF LICENSING BOARDS ONLY.
6 In order to provide liaison with the department of health, provide
7 continuity between changes in board membership, achieve uniformity as
8 appropriate in licensure or regulated activities under the jurisdiction
9 of the department, and to better represent the public interest, the
10 secretary, or a designee appointed by the secretary, shall serve as an
11 ex officio member of every health professional licensure ((~~or~~
12 ~~disciplinary~~)) board established under Title 18 RCW under the
13 administrative authority of the department of health. The secretary
14 shall have no vote unless otherwise authorized by law.

15 PART VII - MISCELLANEOUS

16 NEW SECTION. **Sec. 76.** REPEALERS. The following acts or parts of
17 acts are each repealed:

18 (1) RCW 18.26.010 and 1989 c 258 s 7 & 1967 c 171 s 1;

19 (2) RCW 18.26.020 and 1991 c 3 s 43, 1989 c 258 s 8, & 1967 c 171
20 s 2;

21 (3) RCW 18.26.028 and 1987 c 150 s 13 & 1986 c 259 s 22;

22 (4) RCW 18.26.040 and 1989 c 258 s 9 & 1980 c 46 s 1;

23 (5) RCW 18.26.050 and 1991 c 3 s 44, 1979 c 158 s 21, & 1967 c 171
24 s 5;

25 (6) RCW 18.26.060 and 1967 c 171 s 6;

26 (7) RCW 18.26.070 and 1991 c 3 s 45, 1984 c 287 s 28, & 1980 c 46
27 s 2;

- 1 (8) RCW 18.26.080 and 1967 c 171 s 8;
- 2 (9) RCW 18.26.090 and 1989 c 258 s 11 & 1967 c 171 s 9;
- 3 (10) RCW 18.26.110 and 1986 c 259 s 26, 1975 1st ex.s. c 39 s 2, &
4 1967 c 171 s 11;
- 5 (11) RCW 18.26.900 and 1967 c 171 s 31;
- 6 (12) RCW 18.32.500 and 1989 c 202 s 24, 1986 c 259 s 39, & 1977
7 ex.s. c 5 s 37;
- 8 (13) RCW 18.32.510 and 1977 ex.s. c 5 s 1;
- 9 (14) RCW 18.32.520 and 1991 c 3 s 71, 1989 c 202 s 25, 1986 c 259
10 s 40, 1979 c 158 s 36, & 1977 ex.s. c 5 s 2;
- 11 (15) RCW 18.32.530 and 1989 c 202 s 26, 1986 c 259 s 41, & 1977
12 ex.s. c 5 s 3;
- 13 (16) RCW 18.32.534 and 1991 c 3 s 72 & 1989 c 125 s 1;
- 14 (17) RCW 18.32.560 and 1984 c 279 s 51 & 1977 ex.s. c 5 s 6;
- 15 (18) RCW 18.32.570 and 1977 ex.s. c 5 s 7;
- 16 (19) RCW 18.32.580 and 1977 ex.s. c 5 s 8;
- 17 (20) RCW 18.32.590 and 1977 ex.s. c 5 s 9;
- 18 (21) RCW 18.32.600 and 1984 c 287 s 31 & 1977 ex.s. c 5 s 10;
- 19 (22) RCW 18.32.610 and 1977 ex.s. c 5 s 11;
- 20 (23) RCW 18.32.620 and 1984 c 279 s 62 & 1977 ex.s. c 5 s 12;
- 21 (24) RCW 18.32.665 and 1986 c 259 s 36 & 1935 c 112 s 20;
- 22 (25) RCW 18.32.745 and 1991 c 3 s 73, 1977 ex.s. c 5 s 31, 1957 c
23 52 s 38, & 1953 c 93 s 7;
- 24 (26) RCW 18.35.220 and 1987 c 150 s 25 & 1983 c 39 s 17;
- 25 (27) RCW 18.54.150 and 1963 c 25 s 15;
- 26 (28) RCW 18.57.174 and 1986 c 300 s 9;
- 27 (29) RCW 18.71A.070 and 1990 c 196 s 7, 1979 c 158 s 58, & 1975 1st
28 ex.s. c 190 s 3;
- 29 (30) RCW 18.72.010 and 1955 c 202 s 1;
- 30 (31) RCW 18.72.020 and 1986 c 259 s 115 & 1955 c 202 s 2;

1 (32) RCW 18.72.090 and 1955 c 202 s 9;
2 (33) RCW 18.72.100 and 1991 c 3 s 166, 1984 c 287 s 45, 1979 ex.s.
3 c 111 s 3, 1979 c 158 s 59, 1975-'76 2nd ex.s. c 34 s 42, & 1955 c 202
4 s 10;
5 (34) RCW 18.72.110 and 1955 c 202 s 11;
6 (35) RCW 18.72.120 and 1991 c 3 s 167 & 1955 c 202 s 12;
7 (36) RCW 18.72.130 and 1979 ex.s. c 111 s 4 & 1955 c 202 s 13;
8 (37) RCW 18.72.150 and 1986 c 259 s 116, 1979 ex.s. c 111 s 5, 1975
9 c 61 s 4, & 1955 c 202 s 15;
10 (38) RCW 18.72.154 and 1986 c 259 s 107;
11 (39) RCW 18.72.155 and 1991 c 3 s 168 & 1979 ex.s. c 111 s 6;
12 (40) RCW 18.72.165 and 1986 c 300 s 5;
13 (41) RCW 18.72.190 and 1989 c 373 s 18 & 1955 c 202 s 19;
14 (42) RCW 18.72.265 and 1986 c 259 s 117 & 1979 ex.s. c 111 s 15;
15 (43) RCW 18.72.301 and 1989 c 119 s 1 & 1987 c 416 s 1;
16 (44) RCW 18.72.306 and 1991 c 3 s 169, 1989 c 119 s 2, & 1987 c 416
17 s 2;
18 (45) RCW 18.72.311 and 1987 c 416 s 3;
19 (46) RCW 18.72.316 and 1987 c 416 s 4;
20 (47) RCW 18.72.321 and 1987 c 416 s 6;
21 (48) RCW 18.72.340 and 1986 c 300 s 6;
22 (49) RCW 18.72.380 and 1991 c 3 s 170, 1985 c 7 s 62, & 1983 c 71
23 s 1;
24 (50) RCW 18.72.390 and 1991 sp.s. c 13 s 17, 1985 c 57 s 6, & 1983
25 c 71 s 2;
26 (51) RCW 18.72.400 and 1991 c 3 s 171 & 1983 c 71 s 3;
27 (52) RCW 18.72.900 and 1955 c 202 s 46;
28 (53) RCW 18.72.910 and 1955 c 202 s 48;
29 (54) RCW 18.72.045 and 1991 c 215 s 1;
30 (55) RCW 18.72.345 and 1991 c 215 s 2;

- 1 (56) RCW 18.83.135 and 1987 c 150 s 53 & 1984 c 279 s 86;
2 (57) RCW 18.83.155 and 1987 c 150 s 54 & 1984 c 279 s 89;
3 (58) RCW 18.83.168 and 1986 c 27 s 7;
4 (59) RCW 18.92.047 and 1991 c 3 s 241 & 1989 c 125 s 2;
5 (60) RCW 18.130.100 and 1989 c 175 s 69 & 1984 c 279 s 10;
6 (61) RCW 18.130.140 and 1984 c 279 s 14;
7 (62) RCW 43.131.337 and 1987 c 160 s 2; and
8 (63) RCW 43.131.338 and 1987 c 160 s 3.

9 NEW SECTION. **Sec. 77.** RECODIFICATION. RCW 18.26.030, 18.26.320,
10 18.26.330, 18.26.340, 18.26.350, 18.26.360, 18.26.370, and 18.26.380
11 are each recodified as sections in chapter 18.25 RCW.

12 NEW SECTION. **Sec. 78.** CODIFICATION DIRECTION. Sections 1 through
13 8 of this act are each added to chapter 18.130 RCW.

14 NEW SECTION. **Sec. 79.** CODIFICATION DIRECTION. Sections 14
15 through 23 of this act shall constitute a new chapter in Title 18 RCW.

16 NEW SECTION. **Sec. 80.** CAPTIONS NOT LAW. Section captions as used
17 in this act do not constitute any part of the law.

18 NEW SECTION. **Sec. 81.** EMERGENCY CLAUSE. This act is necessary
19 for the immediate preservation of the public peace, health, or safety,
20 or support of the state government and its existing public
21 institutions, and shall take effect immediately.

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