

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2676

53rd Legislature
1994 1st Special Session

Passed by the House March 14, 1994
Yeas 93 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 14, 1994
Yeas 43 Nays 3

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2676** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2676

AS AMENDED BY THE SENATE

Passed Legislature - 1994 1st Special Session

State of Washington 53rd Legislature 1994 1st Special Session

By House Committee on Appropriations (originally sponsored by Representatives Dunshee, Reams, Anderson, Patterson, Bray, R. Meyers, Basich, Johanson, Pruitt, Ogden, Wolfe, G. Cole, Moak, Valle, H. Myers, Kremen, Silver, Kessler, Conway, Cothorn, Morris, Rayburn and J. Kohl; by request of Governor Lowry)

Read first time 02/04/94.

1 AN ACT Relating to the restructuring of boards, committees,
2 commissions, and councils; amending RCW 18.25.005, 18.25.006,
3 18.25.019, 18.25.020, 18.25.025, 18.25.030, 18.25.035, 18.25.040,
4 18.25.070, 18.25.075, 18.25.180, 18.25.190, 18.32.010, 18.32.030,
5 18.32.040, 18.32.050, 18.32.100, 18.32.120, 18.32.160, 18.32.180,
6 18.32.190, 18.32.195, 18.32.215, 18.32.534, 18.32.640, 18.32.655,
7 18.32.665, 18.32.745, 18.32.755, 18.71.010, 18.71.017, 18.71.019,
8 18.71.050, 18.71.051, 18.71.055, 18.71.060, 18.71.070, 18.71.085,
9 18.71.090, 18.71.095, 18.71.205, 18.71.230, 18.71A.010, 18.71A.020,
10 18.71A.030, 18.71A.040, 18.71A.045, 18.71A.050, 18.71A.060, 18.71A.085,
11 18.72.155, 18.72.165, 18.72.265, 18.72.301, 18.72.306, 18.72.311,
12 18.72.316, 18.72.340, 18.72.345, 18.19.070, 18.06.080, 18.55.020,
13 18.84.020, 18.84.040, 18.84.070, 18.84.090, 18.84.110, 18.89.020,
14 18.89.050, 18.89.080, 18.135.030, 18.138.070, 18.130.010, 18.130.020,
15 18.130.040, 18.130.300, 4.24.260, 4.24.290, 5.62.010, 18.50.032,
16 18.50.040, 18.50.140, 18.50.115, 18.88A.020, 18.88A.030, 18.88A.060,
17 18.88A.080, 18.88A.085, 18.88A.090, 18.88A.130, 18.89.040, 18.100.140,
18 18.120.020, 18.135.020, 28A.210.260, 28A.210.280, 28A.210.290,
19 28C.10.030, 41.05.075, 41.05.180, 42.17.316, 43.70.220, 48.20.393,
20 48.20.411, 48.21.141, 48.21.225, 48.44.026, 48.44.290, 48.44.325,
21 48.46.275, 69.41.030, 69.45.010, 69.50.101, 69.50.402, 70.02.030,

1 70.41.200, 70.41.210, 70.41.230, 70.127.250, 70.180.030, 71.24.025,
2 74.09.290, 74.42.010, 74.42.230, 74.42.240, 74.42.380, 41.04.395,
3 43.19.558, 43.19.554, 70.148.030, 70.175.030, 78.52.010, 78.52.025,
4 78.52.030, 78.52.031, 78.52.032, 78.52.033, 78.52.035, 78.52.037,
5 78.52.040, 78.52.050, 78.52.070, 78.52.100, 78.52.120, 78.52.125,
6 78.52.140, 78.52.150, 78.52.155, 78.52.200, 78.52.205, 78.52.210,
7 78.52.220, 78.52.230, 78.52.240, 78.52.245, 78.52.250, 78.52.257,
8 78.52.260, 78.52.270, 78.52.280, 78.52.290, 78.52.300, 78.52.310,
9 78.52.320, 78.52.330, 78.52.335, 78.52.365, 78.52.460, 78.52.463,
10 78.52.467, 78.52.470, 78.52.480, 78.52.490, 78.52.530, 78.52.540,
11 90.48.366, 90.54.190, 28A.170.050, 43.43.390, 43.70.410, 43.70.420,
12 44.40.070, 46.01.030, 46.52.120, 46.82.300, 46.90.010, and 47.01.250;
13 reenacting and amending RCW 18.71.015, 18.71.030, 18.71.080, 18.71.030,
14 18.88A.100, 69.41.010, 71.05.210, 75.30.050, and 43.03.028; adding new
15 sections to chapter 18.25 RCW; adding new sections to chapter 18.32
16 RCW; adding a new section to chapter 18.71 RCW; adding a new section to
17 chapter 18.130 RCW; adding a new section to chapter 75.30 RCW; adding
18 new sections to chapter 88.46 RCW; adding new sections to chapter 43.41
19 RCW; adding new sections to chapter 43.06 RCW; adding new sections to
20 chapter 43.43 RCW; creating new sections; adding a new chapter to Title
21 18 RCW; recodifying RCW 18.25.120, 18.25.130, 18.25.140, 18.25.150,
22 18.25.160, 18.25.170, 18.72.155, 18.72.165, 18.72.265, 18.72.301,
23 18.72.306, 18.72.311, 18.72.316, 18.72.340, 18.72.345, 18.72.010,
24 18.72.321, 18.72.380, 18.72.390, and 18.72.400; repealing RCW
25 18.25.015, 18.25.016, 18.25.017, 18.26.010, 18.26.020, 18.26.028,
26 18.26.030, 18.26.040, 18.26.050, 18.26.060, 18.26.070, 18.26.080,
27 18.26.090, 18.26.110, 18.26.320, 18.26.330, 18.26.340, 18.26.350,
28 18.26.360, 18.26.370, 18.26.380, 18.26.390, 18.26.900, 18.32.035,
29 18.32.037, 18.32.042, 18.32.500, 18.32.510, 18.32.520, 18.32.560,
30 18.32.570, 18.32.580, 18.32.590, 18.32.600, 18.32.610, 18.32.620,
31 18.72.020, 18.72.045, 18.72.090, 18.72.100, 18.72.110, 18.72.120,
32 18.72.130, 18.72.150, 18.72.154, 18.72.190, 18.72.900, 18.72.910,
33 18.78.005, 18.78.010, 18.78.020, 18.78.030, 18.78.040, 18.78.050,
34 18.78.054, 18.78.055, 18.78.058, 18.78.060, 18.78.070, 18.78.072,
35 18.78.080, 18.78.090, 18.78.100, 18.78.160, 18.78.182, 18.78.225,
36 18.78.900, 18.78.901, 18.88.010, 18.88.020, 18.88.030, 18.88.050,
37 18.88.060, 18.88.070, 18.88.080, 18.88.086, 18.88.090, 18.88.100,
38 18.88.110, 18.88.120, 18.88.130, 18.88.140, 18.88.150, 18.88.160,
39 18.88.170, 18.88.175, 18.88.190, 18.88.200, 18.88.220, 18.88.270,

1 18.88.280, 18.88.285, 18.88.290, 18.88.295, 18.88.300, 18.88.900,
2 18.88A.070, 18.06.170, 18.84.060, 18.89.070, 18.138.080, 18.85.500,
3 27.34.030, 27.34.040, 27.34.050, 43.19.1902, 43.19.556, 43.21A.170,
4 43.21A.180, 43.21A.190, 43.21A.200, 43.21A.210, 43.200.050, 43.230.010,
5 43.230.020, 43.230.030, 43.230.040, 48.17.135, 49.70.120, 49.70.130,
6 67.34.011, 67.34.021, 70.94.039, 73.40.020, 73.40.050, 78.52.020,
7 88.44.005, 88.44.010, 88.44.020, 88.44.030, 88.44.040, 88.44.080,
8 88.44.090, 88.44.100, 88.44.110, 88.44.120, 88.44.130, 88.44.140,
9 88.44.150, 88.44.160, 88.44.170, 88.44.180, 88.44.190, 88.44.200,
10 88.44.210, 88.44.220, 88.44.900, 88.44.901, 88.46.110, 43.59.010,
11 43.59.020, 43.59.030, 43.59.040, 43.59.050, 43.59.060, 43.59.070,
12 43.59.080, 43.59.130, and 43.59.140; repealing 1984 c 286 s 13
13 (uncodified); prescribing penalties; providing an effective date; and
14 declaring an emergency.

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

16 **CHIROPRACTIC**

17 NEW SECTION. **Sec. 101.** A new section is added to chapter 18.25
18 RCW to read as follows:

19 This chapter is enacted:

20 (1) In the exercise of the police power of the state and to provide
21 an adequate public agency to act as a disciplinary body for the members
22 of the chiropractic profession licensed to practice chiropractic in
23 this state;

24 (2) Because the health and well-being of the people of this state
25 are of paramount importance;

26 (3) Because the conduct of members of the chiropractic profession
27 licensed to practice chiropractic in this state plays a vital role in
28 preserving the health and well-being of the people of the state; and

29 (4) Because practicing other healing arts while licensed to
30 practice chiropractic and while holding one's self out to the public as
31 a chiropractor affects the health and welfare of the people of the
32 state.

33 It is the purpose of the commission established under section 104
34 of this act to regulate the competency and quality of professional
35 health care providers under its jurisdiction by establishing,
36 monitoring, and enforcing qualifications for licensing, consistent

1 standards of practice, continuing competency mechanisms, and
2 discipline. Rules, policies, and procedures developed by the
3 commission must promote the delivery of quality health care to the
4 residents of the state.

5 **Sec. 102.** RCW 18.25.005 and 1992 c 241 s 2 are each amended to
6 read as follows:

7 (1) Chiropractic is the practice of health care that deals with the
8 diagnosis or analysis and care or treatment of the vertebral
9 subluxation complex and its effects, articular dysfunction, and
10 musculoskeletal disorders, all for the restoration and maintenance of
11 health and recognizing the recuperative powers of the body.

12 (2) Chiropractic treatment or care includes the use of procedures
13 involving spinal adjustments, and extremity manipulation insofar as any
14 such procedure is complementary or preparatory to a chiropractic spinal
15 adjustment. Chiropractic treatment also includes the use of heat,
16 cold, water, exercise, massage, trigger point therapy, dietary advice
17 and recommendation of nutritional supplementation except for medicines
18 of herbal, animal, or botanical origin, the normal regimen and
19 rehabilitation of the patient, first aid, and counseling on hygiene,
20 sanitation, and preventive measures. Chiropractic care also includes
21 such physiological therapeutic procedures as traction and light, but
22 does not include procedures involving the application of sound,
23 diathermy, or electricity.

24 (3) As part of a chiropractic differential diagnosis, a
25 chiropractor shall perform a physical examination, which may include
26 diagnostic x-rays, to determine the appropriateness of chiropractic
27 care or the need for referral to other health care providers. The
28 chiropractic (~~(disciplinary board)~~) quality assurance commission shall
29 provide by rule for the type and use of diagnostic and analytical
30 devices and procedures consistent with this chapter.

31 (4) Chiropractic care shall not include the prescription or
32 dispensing of any medicine or drug, the practice of obstetrics or
33 surgery, the use of x-rays or any other form of radiation for
34 therapeutic purposes, colonic irrigation, or any form of venipuncture.

35 (5) Nothing in this chapter prohibits or restricts any other
36 practitioner of a "health profession" defined in RCW 18.120.020(4) from
37 performing any functions or procedures the practitioner is licensed or
38 permitted to perform, and the term "chiropractic" as defined in this

1 chapter shall not prohibit a practitioner licensed under chapter 18.71
2 RCW from performing medical procedures, except such procedures shall
3 not include the adjustment by hand of any articulation of the spine.

4 **Sec. 103.** RCW 18.25.006 and 1992 c 241 s 3 are each amended to
5 read as follows:

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

8 (1) "Department" means the department of health.

9 (2) "Secretary" means the secretary of the department of health or
10 the secretary's designee.

11 (3) "Chiropractor" means an individual licensed under this chapter.

12 (4) (~~("Board" means the Washington state board of chiropractic~~
13 ~~examiners-.)~~) "Commission" means the Washington state chiropractic
14 quality assurance commission.

15 (5) "Vertebral subluxation complex" means a functional defect or
16 alteration of the biomechanical and physiological dynamics in a joint
17 that may cause neuronal disturbances, with or without displacement
18 detectable by x-ray. The effects of the vertebral subluxation complex
19 may include, but are not limited to, any of the following: Fixation,
20 hypomobility, hypermobility, periarticular muscle spasm, edema, or
21 inflammation.

22 (6) "Articular dysfunction" means an alteration of the
23 biomechanical and physiological dynamics of a joint of the axial or
24 appendicular skeleton.

25 (7) "Musculoskeletal disorders" means abnormalities of the muscles,
26 bones, and connective tissue.

27 (8) "Chiropractic differential diagnosis" means a diagnosis to
28 determine the existence of a vertebral subluxation complex, articular
29 dysfunction, or musculoskeletal disorder, and the appropriateness of
30 chiropractic care or the need for referral to other health care
31 providers.

32 (9) "Chiropractic adjustment" means chiropractic care of a
33 vertebral subluxation complex, articular dysfunction, or
34 musculoskeletal disorder. Such care includes manual or mechanical
35 adjustment of any vertebral articulation and contiguous articulations
36 beyond the normal passive physiological range of motion.

37 (10) "Extremity manipulation" means a corrective thrust or maneuver
38 applied to a joint of the appendicular skeleton. The use of extremity

1 manipulation shall be complementary and preparatory to a chiropractic
2 spinal adjustment to support correction of a vertebral subluxation
3 complex and is considered a part of a spinal adjustment and shall not
4 be billed separately from or in addition to a spinal adjustment.

5 NEW SECTION. **Sec. 104.** A new section is added to chapter 18.25
6 RCW to read as follows:

7 COMMISSION ESTABLISHED--MEMBERS APPOINTED BY THE GOVERNOR. The
8 Washington state chiropractic quality assurance commission is
9 established, consisting of fourteen members appointed by the governor
10 to four-year terms, and including eleven practicing chiropractors and
11 three public members. No member may serve more than two consecutive
12 full terms. In appointing the initial members of the commission, it is
13 the intent of the legislature that, to the extent possible, the
14 governor appoint members of the previous boards and committees
15 regulating this profession to the commission. Members of the
16 commission hold office until their successors are appointed. The
17 governor may appoint the members of the initial commissions to
18 staggered terms of from one to four years. Thereafter, all members
19 shall be appointed to full four-year terms. The governor may consider
20 persons who are recommended for appointment by chiropractic
21 associations of this state.

22 NEW SECTION. **Sec. 105.** A new section is added to chapter 18.25
23 RCW to read as follows:

24 COMMISSION--REMOVAL OF MEMBERS--VACANCIES. The governor may remove
25 a member of the commission for neglect of duty, misconduct, or
26 malfeasance or misfeasance in office. Whenever the governor is
27 satisfied that a member of the commission has been guilty of neglect of
28 duty, misconduct, or malfeasance or misfeasance in office, the governor
29 shall file with the secretary of state a statement of the causes for
30 and the order of removal from office, and the secretary shall forthwith
31 send a certified copy of the order of removal and statement of causes
32 by certified mail to the last known post office address of the member.
33 If a vacancy occurs on the commission, the governor shall appoint a
34 replacement to fill the remainder of the unexpired term.

35 NEW SECTION. **Sec. 106.** A new section is added to chapter 18.25
36 RCW to read as follows:

1 COMMISSION--QUALIFICATIONS OF MEMBERS. Members must be citizens of
2 the United States and residents of this state. Members must be
3 licensed chiropractors for a period of five years before appointment.
4 Public members of the commission may not be a member of any other
5 health care licensing board or commission, or have a fiduciary
6 obligation to a facility rendering health services regulated by the
7 commission, or have a material or financial interest in the rendering
8 of health services regulated by the commission.

9 NEW SECTION. **Sec. 107.** A new section is added to chapter 18.25
10 RCW to read as follows:

11 COMMISSION--DUTIES AND POWERS. The commission shall elect officers
12 each year. Meetings of the commission are open to the public, except
13 that the commission may hold executive sessions to the extent permitted
14 by chapter 42.30 RCW. The secretary of health shall furnish such
15 secretarial, clerical, and other assistance as the commission may
16 require.

17 Each member of the commission shall be compensated in accordance
18 with RCW 43.03.240. Members shall be reimbursed for travel expenses
19 incurred in the actual performance of their duties, as provided in RCW
20 43.03.050 and 43.03.060.

21 A majority of the commission members appointed and serving
22 constitutes a quorum for the transaction of commission business. The
23 affirmative vote of a majority of a quorum of the commission is
24 required to carry a motion or resolution, to adopt a rule, or to pass
25 a measure.

26 The commission may appoint members of panels of at least three
27 members. A quorum for transaction of any business by a panel is a
28 minimum of three members. A majority vote of a quorum of the panel is
29 required to transact business delegated to it by the commission.

30 The members of the commission are immune from suit in an action,
31 civil or criminal, based upon its disciplinary proceedings or other
32 official acts performed in good faith as members of the commission.

33 The commission may, whenever the workload of the commission
34 requires, request that the secretary appoint pro tempore members.
35 While serving as members pro tempore persons have all the powers,
36 duties, and immunities, and are entitled to the emoluments, including
37 travel expenses, of the commission.

1 The commission shall prepare or determine the nature of the
2 examinations for applicants to practice chiropractic.

3 The commission may adopt such rules as are consistent with this
4 chapter as may be deemed necessary and proper to carry out the purposes
5 of this chapter.

6 **Sec. 108.** RCW 18.25.019 and 1987 c 150 s 12 are each amended to
7 read as follows:

8 The Uniform Disciplinary Act, chapter 18.130 RCW, governs
9 unlicensed practice ~~((and))~~, the issuance and denial of licenses, and
10 the discipline of licensees under this chapter.

11 **Sec. 109.** RCW 18.25.020 and 1991 c 3 s 38 are each amended to read
12 as follows:

13 (1) Any person not now licensed to practice chiropractic in this
14 state and who desires to practice chiropractic in this state, before it
15 shall be lawful for him or her to do so, shall make application
16 therefor to the secretary, upon such form and in such manner as may be
17 adopted and directed by the secretary. Each applicant who matriculates
18 to a chiropractic college after January 1, 1975, shall have completed
19 not less than one-half of the requirements for a baccalaureate degree
20 at an accredited and approved college or university and shall be a
21 graduate of a chiropractic school or college accredited and approved by
22 the ~~((board of chiropractic examiners))~~ commission and shall show
23 satisfactory evidence of completion by each applicant of a resident
24 course of study of not less than four thousand classroom hours of
25 instruction in such school or college. Applications shall be in
26 writing and shall be signed by the applicant in his or her own
27 handwriting and shall be sworn to before some officer authorized to
28 administer oaths, and shall recite the history of the applicant as to
29 his or her educational advantages, his or her experience in matters
30 pertaining to a knowledge of the care of the sick, how long he or she
31 has studied chiropractic, under what teachers, what collateral
32 branches, if any, he or she has studied, the length of time he or she
33 has engaged in clinical practice; accompanying the same by reference
34 therein, with any proof thereof in the shape of diplomas, certificates,
35 and shall accompany said application with satisfactory evidence of good
36 character and reputation.

1 (2) There shall be paid to the secretary by each applicant for a
2 license, a fee determined by the secretary as provided in RCW 43.70.250
3 which shall accompany application and a fee determined by the secretary
4 as provided in RCW 43.70.250, which shall be paid upon issuance of
5 license. Like fees shall be paid for any subsequent examination and
6 application.

7 **Sec. 110.** RCW 18.25.025 and 1980 c 51 s 3 are each amended to read
8 as follows:

9 The ((board)) commission shall have authority to grant
10 accreditation to chiropractic schools and colleges.

11 The ((board)) commission shall have authority to adopt educational
12 standards which may include standards of any accreditation agency
13 recognized by the office of education of the department of health and
14 human services or its successor agency, or any portion of such
15 standards, as the ((board's)) commission's standards: PROVIDED, That
16 such standards, so adopted, shall contain, as a minimum of on-campus
17 instruction in chiropractic, the following: Principles of
18 chiropractic, two hundred hours; adjustive technique, four hundred
19 hours; spinal roentgenology, one hundred seventy-five hours;
20 symptomatology and diagnosis, four hundred twenty-five hours; clinic,
21 six hundred twenty-five hours: PROVIDED FURTHER, That such standards
22 shall not mandate, as a requirement for either graduation or
23 accreditation, or include in the computation of hours of chiropractic
24 instruction required by this section, instruction in the following:
25 Mechanotherapy, physiotherapy, acupuncture, acupressure, or any other
26 therapy.

27 The ((board)) commission shall approve and accredit chiropractic
28 colleges and schools which apply for ((board)) commission accreditation
29 and approval and which meet to the ((board's)) commission's
30 satisfaction the educational standards adopted by the ((board))
31 commission. It shall be the responsibility of the college to apply for
32 accreditation and approval, and of a student to ascertain whether a
33 college or school has been accredited or approved by the ((board))
34 commission.

35 The ((board)) commission shall have authority to engage assistants
36 in the giving of examinations called for under this chapter.

1 **Sec. 111.** RCW 18.25.030 and 1989 c 258 s 4 are each amended to
2 read as follows:

3 Examinations for license to practice chiropractic shall be made by
4 the (~~board of chiropractic examiners~~) commission according to the
5 method deemed by it to be the most practicable and expeditious to test
6 the applicant's qualifications. Such application shall be designated
7 by a number instead of his or her name, so that the identity shall not
8 be discovered or disclosed to the members of the (~~examining~~
9 ~~committee~~) commission until after the examination papers are graded.

10 All examinations shall be in whole or in part in writing, the
11 subject of which shall be as follows: Anatomy, physiology, spinal
12 anatomy, microbiology-public health, general diagnosis,
13 neuromuscularskeletal diagnosis, x-ray, principles of chiropractic and
14 adjusting, as taught by chiropractic schools and colleges. The
15 (~~board~~) commission shall administer a practical examination to
16 applicants which shall consist of diagnosis, principles and practice,
17 x-ray, and adjustive technique consistent with chapter 18.25 RCW. A
18 license shall be granted to all applicants whose score over each
19 subject tested is seventy-five percent. The (~~board~~) commission may
20 enact additional requirements for testing administered by the national
21 board of chiropractic examiners.

22 **Sec. 112.** RCW 18.25.035 and 1971 ex.s. c 227 s 5 are each amended
23 to read as follows:

24 The (~~board~~) commission may, in its discretion, waive any
25 examination required by this chapter of persons applying for a license
26 to practice chiropractic if, in its opinion, the applicant has
27 successfully passed an examination conducted by the national board of
28 chiropractic examiners of the United States that is of equal or greater
29 difficulty than the examination being waived by the (~~board~~)
30 commission.

31 **Sec. 113.** RCW 18.25.040 and 1991 c 320 s 8 are each amended to
32 read as follows:

33 Persons licensed to practice chiropractic under the laws of any
34 other state, territory of the United States, the District of Columbia,
35 Puerto Rico, or province of Canada, having qualifications substantially
36 equivalent to those required by this chapter, may, in the discretion of
37 the (~~board of chiropractic examiners~~) commission, and after such

1 examination as may be required by rule of the (~~board~~) commission, be
2 issued a license to practice in this state without further examination,
3 upon payment of a fee determined by the secretary as provided in RCW
4 43.70.250.

5 **Sec. 114.** RCW 18.25.070 and 1991 c 3 s 40 are each amended to read
6 as follows:

7 (1) Every person practicing chiropractic shall, as a prerequisite
8 to annual renewal of license, submit to the secretary at the time of
9 application therefor, satisfactory proof showing attendance of at least
10 twenty-five hours during the preceding twelve-month period, at one or
11 more chiropractic symposiums which are recognized and approved by the
12 (~~board of chiropractic examiners:—PROVIDED, That the board~~)
13 commission. The commission may, for good cause shown, waive said
14 attendance. The following guidelines for such symposiums shall apply:

15 (a) The (~~board~~) commission shall set criteria for the course
16 content of educational symposia concerning matters which are recognized
17 by the state of Washington chiropractic licensing laws; it shall be the
18 licensee's responsibility to determine whether the course content meets
19 these criteria;

20 (b) The (~~board~~) commission shall adopt standards for distribution
21 of annual continuing education credit requirements;

22 (c) Rules shall be adopted by the (~~board~~) commission for
23 licensees practicing and residing outside the state who shall meet all
24 requirements established by rule of the (~~board by rules and~~
25 ~~regulations~~) commission.

26 (2) Every person practicing chiropractic within this state shall
27 pay on or before his or her birth anniversary date, after a license is
28 issued to him or her as (~~herein~~) provided in this chapter, to
29 (~~said~~) the secretary a renewal license fee to be determined by the
30 secretary as provided in RCW 43.70.250. The secretary shall, thirty
31 days or more before the birth anniversary date of each chiropractor in
32 the state, mail to that chiropractor a notice of the fact that the
33 renewal fee will be due on or before his or her birth anniversary date.
34 Nothing in this chapter shall be construed so as to require that the
35 receipts shall be recorded as original licenses are required to be
36 recorded.

37 The failure of any licensed chiropractor to pay his or her annual
38 license renewal fee within thirty days of license expiration shall work

1 a forfeiture of his or her license. It shall not be reinstated except
2 upon evidence that continuing educational requirements have been
3 fulfilled and the payment of a penalty to be determined by the
4 secretary as provided in RCW 43.70.250, together with all annual
5 license renewal fees delinquent at the time of the forfeiture, and
6 those for each year thereafter up to the time of reinstatement.
7 (~~(Should the licentiate)~~) If the licensee allows his or her license to
8 (~~(elapse)~~) lapse for more than three years, he or she may be reexamined
9 as provided for in RCW 18.25.040 at the discretion of the (~~(board)~~)
10 commission.

11 **Sec. 115.** RCW 18.25.075 and 1991 c 3 s 41 are each amended to read
12 as follows:

13 (1) An individual may place his or her license on inactive status.
14 The holder of an inactive license shall not practice chiropractic in
15 this state without first activating the license.

16 (2) The inactive renewal fee shall be established by the secretary
17 pursuant to RCW 43.70.250. Failure to renew an inactive license shall
18 result in cancellation in the same manner as an active license.

19 (3) An inactive license may be placed in an active status upon
20 compliance with the rules established by the (~~(board)~~) commission.

21 (4) The provisions relating to the denial, suspension, and
22 revocation of a license shall be applicable to an inactive license,
23 except that when proceedings to suspend or revoke an inactive license
24 have been initiated, the license shall remain inactive until the
25 proceedings have been completed.

26 NEW SECTION. **Sec. 116.** A new section is added to chapter 18.25
27 RCW to read as follows:

28 (1) In addition to those acts defined in chapter 18.130 RCW, the
29 term "unprofessional conduct" as used in this chapter includes failing
30 to differentiate chiropractic care from any and all other methods of
31 healing at all times.

32 (2) Proceedings involving alleged unprofessional conduct shall be
33 prosecuted by the attorney general upon the direction of the
34 commission.

35 **Sec. 117.** RCW 18.25.180 and 1991 c 222 s 9 are each amended to
36 read as follows:

1 (1) A chiropractor may employ a technician to operate x-ray
2 equipment after the technician has registered with the ((board))
3 commission.

4 (2) The ((board)) commission may adopt rules necessary and
5 appropriate to carry out the purposes of this section.

6 **Sec. 118.** RCW 18.25.190 and 1991 c 320 s 10 are each amended to
7 read as follows:

8 Nothing in this chapter shall be construed to prohibit:

9 (1) The temporary practice in this state of chiropractic by any
10 chiropractor licensed by another state, territory, or country in which
11 he or she resides. However, the chiropractor shall not establish a
12 practice open to the general public and shall not engage in temporary
13 practice under this section for a period longer than thirty days. The
14 chiropractor shall register his or her intention to engage in the
15 temporary practice of chiropractic in this state with the ((board of
16 chiropractic examiners)) commission before engaging in the practice of
17 chiropractic, and shall agree to be bound by such conditions as may be
18 prescribed by rule by the ((board)) commission.

19 (2) The practice of chiropractic, except the administration of a
20 chiropractic adjustment, by a person who is a regular senior student in
21 an accredited school of chiropractic approved by the ((board))
22 commission if the practice is part of a regular course of instruction
23 offered by the school and the student is under the direct supervision
24 and control of a chiropractor duly licensed pursuant to this chapter
25 and approved by the ((board)) commission.

26 (3) The practice of chiropractic by a person serving a period of
27 postgraduate chiropractic training in a program of clinical
28 chiropractic training sponsored by a school of chiropractic accredited
29 in this state if the practice is part of his or her duties as a
30 clinical postgraduate trainee and the trainee is under the direct
31 supervision and control of a chiropractor duly licensed pursuant to
32 this chapter and approved by the ((board)) commission.

33 (4) The practice of chiropractic by a person who is eligible and
34 has applied to take the next available examination for licensing
35 offered by the ((board of chiropractic examiners)) commission, except
36 that the unlicensed chiropractor must provide all services under the
37 direct control and supervision of a licensed chiropractor approved by
38 the ((board)) commission. The unlicensed chiropractor may continue to

1 practice as provided by this subsection until the results of the next
2 available examination are published, but in no case for a period longer
3 than six months. The (~~board~~) commission shall adopt rules necessary
4 to effectuate the intent of this subsection.

5 Any provision of chiropractic services by any individual under
6 subsection (1), (2), (3), or (4) of this section shall be subject to
7 the jurisdiction of the (~~chiropractic disciplinary board~~) commission
8 as provided in chapters 18.26 and 18.130 RCW.

9 NEW SECTION. **Sec. 119.** A new section is added to chapter 18.25
10 RCW to read as follows:

11 The commission is the successor in interest of the board of
12 chiropractic examiners, the chiropractic disciplinary board, and the
13 chiropractic peer review committee. All contracts, undertakings,
14 agreements, rules, regulations, and policies of those bodies continue
15 in full force and effect on the effective date of this act, unless
16 otherwise repealed or rejected by chapter . . . , Laws of 1994 (this
17 act) or by the commission.

18 NEW SECTION. **Sec. 120.** RCW 18.25.120, 18.25.130, 18.25.140,
19 18.25.150, 18.25.160, and 18.25.170 are each recodified within chapter
20 18.25 RCW between RCW 18.25.019 and 18.25.020.

21 NEW SECTION. **Sec. 121.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 18.25.015 and 1989 c 258 s 1, 1984 c 279 s 49, 1980 c 51 s
24 1, 1965 ex.s. c 50 s 1, & 1959 c 53 s 1;

25 (2) RCW 18.25.016 and 1989 c 258 s 13;

26 (3) RCW 18.25.017 and 1991 c 3 s 37, 1986 c 259 s 23, 1984 c 287 s
27 27, 1975-'76 2nd ex.s. c 34 s 32, 1974 ex.s. c 97 s 8, & 1959 c 53 s 2;

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

29 (5) RCW 18.26.020 and 1991 c 3 s 43, 1989 c 258 s 8, & 1967 c 171
30 s 2;

31 (6) RCW 18.26.028 and 1987 c 150 s 13 & 1986 c 259 s 22;

32 (7) RCW 18.26.030 and 1986 c 259 s 25, 1979 ex.s. c 111 s 17, 1975
33 1st ex.s. c 39 s 1, 1974 ex.s. c 97 s 12, & 1967 c 171 s 3;

34 (8) RCW 18.26.040 and 1989 c 258 s 9 & 1980 c 46 s 1;

35 (9) RCW 18.26.050 and 1991 c 3 s 44, 1979 c 158 s 21, & 1967 c 171
36 s 5;

- 1 (10) RCW 18.26.060 and 1967 c 171 s 6;
2 (11) RCW 18.26.070 and 1991 c 3 s 45, 1984 c 287 s 28, & 1980 c 46
3 s 2;
4 (12) RCW 18.26.080 and 1967 c 171 s 8;
5 (13) RCW 18.26.090 and 1989 c 258 s 11 & 1967 c 171 s 9;
6 (14) RCW 18.26.110 and 1986 c 259 s 26, 1975 1st ex.s. c 39 s 2, &
7 1967 c 171 s 11;
8 (15) RCW 18.26.320 and 1991 c 320 s 1;
9 (16) RCW 18.26.330 and 1991 c 320 s 2;
10 (17) RCW 18.26.340 and 1991 c 320 s 3;
11 (18) RCW 18.26.350 and 1991 c 320 s 4;
12 (19) RCW 18.26.360 and 1991 c 320 s 5;
13 (20) RCW 18.26.370 and 1991 c 320 s 6;
14 (21) RCW 18.26.380 and 1991 c 320 s 7;
15 (22) RCW 18.26.390 and 1991 c 320 s 11; and
16 (23) RCW 18.26.900 and 1967 c 171 s 31.

17

DENTAL

18 NEW SECTION. **Sec. 201.** A new section is added to chapter 18.32
19 RCW to read as follows:

20 The legislature finds that the health and well-being of the people
21 of this state are of paramount importance.

22 The legislature further finds that the conduct of members of the
23 dental profession licensed to practice dentistry in this state plays a
24 vital role in preserving the health and well-being of the people of the
25 state.

26 The legislature further finds that there is no effective means of
27 handling disciplinary proceedings against members of the dental
28 profession licensed in this state when such proceedings are necessary
29 for the protection of the public health.

30 Therefore, the legislature declares its intention to exercise the
31 police power of the state to protect the public health, to promote the
32 welfare of the state, and to provide a commission to act as a
33 disciplinary and regulatory body for the members of the dental
34 profession licensed to practice dentistry in this state.

35 It is the purpose of the commission established in section 204 of
36 this act to regulate the competency and quality of professional health
37 care providers under its jurisdiction by establishing, monitoring, and

1 enforcing qualifications for licensure, consistent standards of
2 practice, continuing competency mechanisms, and discipline. Rules,
3 policies, and procedures developed by the commission must promote the
4 delivery of quality health care to the residents of the state.

5 **Sec. 202.** RCW 18.32.010 and 1991 c 3 s 58 are each amended to read
6 as follows:

7 Words used in the singular in this chapter may also be applied to
8 the plural of the persons and things; words importing the plural may be
9 applied to the singular; words importing the masculine gender may be
10 extended to females also; the term "~~((board))~~ commission" used in this
11 chapter shall mean the Washington state ~~((board of dental examiners))~~
12 dental quality assurance commission; and the term "secretary" shall
13 mean the secretary of health of the state of Washington.

14 **Sec. 203.** RCW 18.32.030 and 1991 c 3 s 59 are each amended to read
15 as follows:

16 The following practices, acts, and operations are excepted from the
17 operation of the provisions of this chapter:

18 (1) The rendering of dental relief in emergency cases in the
19 practice of his or her profession by a physician or surgeon, licensed
20 as such and registered under the laws of this state, unless the
21 physician or surgeon undertakes to or does reproduce lost parts of the
22 human teeth in the mouth or to restore or to replace in the human mouth
23 lost or missing teeth;

24 (2) The practice of dentistry in the discharge of official duties
25 by dentists in the United States federal services on federal
26 reservations, including but not limited to the armed services, coast
27 guard, public health service, veterans' bureau, or bureau of Indian
28 affairs;

29 (3) Dental schools or colleges approved under RCW 18.32.040, and
30 the practice of dentistry by students in Washington state dental
31 schools or colleges approved by the ~~((board))~~ commission, when acting
32 under the direction and supervision of Washington state-licensed dental
33 school faculty;

34 (4) The practice of dentistry by licensed dentists of other states
35 or countries while appearing as clinicians at meetings of the
36 Washington state dental association, or component parts thereof, or at

1 meetings sanctioned by them, or other groups approved by the (~~board of~~
2 ~~dental examiners~~) commission;

3 (5) The use of roentgen and other rays for making radiographs or
4 similar records of dental or oral tissues, under the supervision of a
5 licensed dentist or physician;

6 (6) The making, repairing, altering, or supplying of artificial
7 restorations, substitutions, appliances, or materials for the
8 correction of disease, loss, deformity, malposition, dislocation,
9 fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or
10 associated tissues or parts; providing the same are made, repaired,
11 altered, or supplied pursuant to the written instructions and order of
12 a licensed dentist which may be accompanied by casts, models, or
13 impressions furnished by the dentist, and the prescriptions shall be
14 retained and filed for a period of not less than three years and shall
15 be available to and subject to the examination of the secretary or the
16 secretary's authorized representatives;

17 (7) The removal of deposits and stains from the surfaces of the
18 teeth, the application of topical preventative or prophylactic agents,
19 and the polishing and smoothing of restorations, when performed or
20 prescribed by a dental hygienist licensed under the laws of this state;

21 (8) A qualified and licensed physician and surgeon or osteopathic
22 physician and surgeon extracting teeth or performing oral surgery
23 pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

24 (9) The performing of dental operations or services by persons not
25 licensed under this chapter when performed under the supervision of a
26 licensed dentist: PROVIDED HOWEVER, That such nonlicensed person shall
27 in no event perform the following dental operations or services unless
28 permitted to be performed by the person under this chapter or chapters
29 18.29, 18.57, 18.71, and (~~18.88 RCW~~) 18.-- RCW (sections 401
30 through 431 of this act) as it applies to registered nurses and
31 advanced registered nurse practitioners;

32 (a) Any removal of or addition to the hard or soft tissue of the
33 oral cavity;

34 (b) Any diagnosis of or prescription for treatment of disease,
35 pain, deformity, deficiency, injury, or physical condition of the human
36 teeth or jaws, or adjacent structure;

37 (c) Any administration of general or injected local anaesthetic of
38 any nature in connection with a dental operation, including intravenous
39 sedation;

1 (d) Any oral prophylaxis;

2 (e) The taking of any impressions of the teeth or jaw or the
3 relationships of the teeth or jaws, for the purpose of fabricating any
4 intra-oral restoration, appliance, or prosthesis.

5 NEW SECTION. **Sec. 204.** A new section is added to chapter 18.32
6 RCW to read as follows:

7 COMMISSION ESTABLISHED--MEMBERS APPOINTED. The Washington state
8 dental quality assurance commission is established, consisting of
9 fourteen members each appointed by the governor to a four-year term.
10 No member may serve more than two consecutive full terms. In
11 appointing the initial members of the commission, it is the intent of
12 the legislature that, to the extent possible, members of the previous
13 boards and committees regulating these professions be appointed to the
14 commission. Members of the commission hold office until their
15 successors are appointed. The governor may appoint members of the
16 initial commission to staggered terms of from one to four years.
17 Thereafter, all members shall be appointed to full four-year terms.
18 Twelve members of the commission must be dentists and two members must
19 be public members.

20 NEW SECTION. **Sec. 205.** A new section is added to chapter 18.32
21 RCW to read as follows:

22 COMMISSION--REMOVAL OF MEMBERS--VACANCIES. The governor may remove
23 a member of the commission for neglect of duty, misconduct, or
24 malfeasance or misfeasance in office. Whenever the governor is
25 satisfied that a member of the commission has been guilty of neglect of
26 duty, misconduct, or malfeasance or misfeasance in office, the governor
27 shall file with the secretary of state a statement of the causes for
28 and the order of removal from office, and the secretary shall forthwith
29 send a certified copy of the order of removal and statement of causes
30 by certified mail to the last known post office address of the member.
31 If a vacancy occurs on the commission, the governor shall appoint a
32 replacement to fill the remainder of the unexpired term.

33 NEW SECTION. **Sec. 206.** A new section is added to chapter 18.32
34 RCW to read as follows:

35 COMMISSION--QUALIFICATIONS OF MEMBERS. Members must be citizens of
36 the United States and residents of this state. Dentist members must be

1 licensed dentists in the active practice of dentistry for a period of
2 five years before appointment. Of the twelve dentists appointed to the
3 commission, at least four must reside and engage in the active practice
4 of dentistry east of the summit of the Cascade mountain range. Public
5 members of the commission may not be a member of any other health care
6 licensing board or commission, or have a fiduciary obligation to a
7 facility rendering health services regulated by the commission, or have
8 a material or financial interest in the rendering of health services
9 regulated by the commission.

10 NEW SECTION. **Sec. 207.** A new section is added to chapter 18.32
11 RCW to read as follows:

12 COMMISSION--DUTIES AND POWERS. The commission shall elect officers
13 each year. Meetings of the commission are open to the public, except
14 the commission may hold executive sessions to the extent permitted by
15 chapter 42.30 RCW. The secretary of health shall furnish such
16 secretarial, clerical, and other assistance as the commission may
17 require.

18 A majority of the commission members appointed and serving
19 constitutes a quorum for the transaction of commission business. The
20 affirmative vote of a majority of a quorum of the commission is
21 required to carry a motion or resolution, to adopt a rule, or to pass
22 a measure.

23 The commission may appoint members of panels consisting of not less
24 than three members. A quorum for transaction of any business shall be
25 a minimum of three members. A majority vote of a quorum of the panel
26 is required to transact business delegated to it by the commission.

27 The members of the commission are immune from suit in an action,
28 civil or criminal, based upon its disciplinary proceedings or other
29 official acts performed in good faith as members of the commission.

30 The commission may, whenever the workload of the commission
31 requires, request that the secretary appoint pro tempore members.
32 While serving as members pro tempore persons have all the powers,
33 duties, and immunities, and are entitled to the emoluments, including
34 travel expenses, of the commission.

35 The commission shall prepare or determine the nature of the
36 examinations for applicants to practice dentistry.

37 The attorney general shall advise the commission and represent it
38 in all legal proceedings.

1 NEW SECTION. **Sec. 208.** A new section is added to chapter 18.32
2 RCW to read as follows:

3 Each member of the commission shall be compensated in accordance
4 with RCW 43.03.240. Members shall be reimbursed for travel expenses
5 incurred in the actual performance of their duties, as provided in RCW
6 43.03.050 and 43.03.060. Commission members shall be compensated and
7 reimbursed for their activities in developing or administering a
8 multistate licensing examination, as provided in this chapter.

9 NEW SECTION. **Sec. 209.** A new section is added to chapter 18.32
10 RCW to read as follows:

11 The commission may contract with competent persons on a temporary
12 basis to assist in developing or administering examinations for
13 licensure.

14 The commission may enter into compacts and agreements with other
15 states and with organizations formed by several states, for the purpose
16 of conducting multistate licensing examinations. The commission may
17 enter into the compacts and agreements even though they would result in
18 the examination of a candidate for a license in this state by an
19 examiner or examiners from another state or states, and even though the
20 compacts and agreements would result in the examination of a candidate
21 or candidates for a license in another state or states by an examiner
22 or examiners from this state.

23 NEW SECTION. **Sec. 210.** A new section is added to chapter 18.32
24 RCW to read as follows:

25 The commission may adopt rules in accordance with chapter 34.05 RCW
26 to implement this chapter and chapter 18.130 RCW.

27 **Sec. 211.** RCW 18.32.040 and 1991 c 3 s 61 are each amended to read
28 as follows:

29 The ((board)) commission shall require that every applicant for a
30 license to practice dentistry shall:

31 (1) Present satisfactory evidence of graduation from a dental
32 college, school, or dental department of an institution approved by the
33 ((board)) commission;

34 (2) Submit, for the files of the ((board)) commission, a recent
35 picture duly identified and attested; and

1 (3) Pass an examination prepared or approved by and administered
2 under the direction of the ((board)) commission. The dentistry
3 licensing examination shall consist of practical and written tests upon
4 such subjects and of such scope as the ((board)) commission determines.
5 The ((board)) commission may accept, in lieu of all or part of a
6 written examination, a certificate granted by a national or regional
7 testing organization approved by the ((board)) commission. The
8 ((board)) commission shall set the standards for passing the
9 examination. The secretary shall keep on file the examination papers
10 and records of examination for at least one year. This file shall be
11 open for inspection by the applicant or the applicant's agent unless
12 the disclosure will compromise the examination process as determined by
13 the ((board)) commission or is exempted from disclosure under RCW
14 42.17.250 through 42.17.340.

15 **Sec. 212.** RCW 18.32.050 and 1984 c 287 s 30 are each amended to
16 read as follows:

17 ~~((The members of the board shall each be compensated in accordance~~
18 ~~with RCW 43.03.240 and shall be reimbursed for travel expenses incurred~~
19 ~~in attending the meetings of the board in accordance with RCW 43.03.050~~
20 ~~and 43.03.060.—Board)) Commission members shall be compensated and
21 reimbursed pursuant to this section for their activities in
22 administering a multi-state licensing examination pursuant to the
23 ((board's)) commission's compact or agreement with another state or
24 states or with organizations formed by several states(~~(:—PROVIDED,~~
25 ~~That any)).~~ Compensation or reimbursement received by a ((board))
26 commission member from another state, or organization formed by several
27 states, for such member's services in administering a multi-state
28 licensing examination, shall be deposited in the state general fund.~~

29 **Sec. 213.** RCW 18.32.100 and 1991 c 3 s 62 are each amended to read
30 as follows:

31 The applicant for a dentistry license shall file an application on
32 a form furnished by the secretary, stating the applicant's name, age,
33 place of residence, the name of the school or schools attended by the
34 applicant, the period of such attendance, the date of the applicant's
35 graduation, whether the applicant has ever been the subject of any
36 disciplinary action related to the practice of dentistry, and shall
37 include a statement of all of the applicant's dental activities. This

1 shall include any other information deemed necessary by the ((board))
2 commission.

3 The application shall be signed by the applicant and sworn to by
4 the applicant before some person authorized to administer oaths, and
5 shall be accompanied by proof of the applicant's school attendance and
6 graduation.

7 **Sec. 214.** RCW 18.32.120 and 1991 c 3 s 64 are each amended to read
8 as follows:

9 When the application and the accompanying proof are found
10 satisfactory, the secretary shall notify the applicant to appear before
11 the ((board)) commission at a time and place to be fixed by the
12 ((board)) commission.

13 The examination papers, and all grading thereon, and the grading of
14 the practical work, shall be preserved for a period of not less than
15 one year after the ((board)) commission has made and published its
16 decisions thereon. All examinations shall be conducted by the
17 ((board)) commission under fair and wholly impartial methods.

18 Any applicant who fails to make the required grade by his or her
19 fourth examination may be reexamined only under rules adopted by the
20 ((board)) commission.

21 Applicants for examination or reexamination shall pay a fee as
22 determined by the secretary as provided in RCW 43.70.250.

23 **Sec. 215.** RCW 18.32.160 and 1991 c 3 s 65 are each amended to read
24 as follows:

25 All licenses issued by the secretary on behalf of the ((board))
26 commission shall be signed by the secretary or chairperson and
27 secretary of the ((board)) commission.

28 **Sec. 216.** RCW 18.32.180 and 1991 c 3 s 67 are each amended to read
29 as follows:

30 (1) Every person licensed to practice dentistry in this state shall
31 register with the secretary, and pay a renewal registration fee
32 determined by the secretary as provided in RCW 43.70.250. Any failure
33 to register and pay the renewal registration fee renders the license
34 invalid, and the practice of dentistry shall not be permitted. The
35 license shall be reinstated upon written application to the secretary
36 and payment to the state of a penalty fee determined by the secretary

1 as provided in RCW 43.70.250, together with all delinquent license
2 renewal fees.

3 (2) A person who fails to renew the license for a period of three
4 years may not renew the license under subsection (1) of this section.
5 In order to obtain a license to practice dentistry in this state, such
6 a person shall file an original application as provided for in this
7 chapter, along with the requisite fees. The ((~~board~~)) commission, in
8 its sole discretion, may permit the applicant to be licensed without
9 examination, and with or without conditions, if it is satisfied that
10 the applicant meets all the requirements for licensure in this state
11 and is competent to engage in the practice of dentistry.

12 **Sec. 217.** RCW 18.32.190 and 1991 c 3 s 68 are each amended to read
13 as follows:

14 Every person who engages in the practice of dentistry in this state
15 shall cause his or her license to be, at all times, displayed in a
16 conspicuous place, in his or her office wherein he or she shall
17 practice such profession, and shall further, whenever requested,
18 exhibit such license to any of the members of ((~~said board~~)) the
19 commission, or its authorized agent, and to the secretary or his or her
20 authorized agent. Every licensee shall notify the secretary of the
21 address or addresses, and of every change thereof, where the licensee
22 shall engage in the practice of dentistry.

23 **Sec. 218.** RCW 18.32.195 and 1992 c 59 s 1 are each amended to read
24 as follows:

25 The ((~~board~~)) commission may, without examination, issue a license
26 to persons who possess the qualifications set forth in this section.

27 (1) The ((~~board~~)) commission may, upon written request of the dean
28 of the school of dentistry of the University of Washington, issue a
29 license to practice dentistry in this state to persons who have been
30 licensed or otherwise authorized to practice dentistry in another state
31 or country and who have been accepted for employment by the school of
32 dentistry as full-time faculty members. For purposes of this
33 subsection, this means teaching members of the faculty of the school of
34 dentistry of the University of Washington who are so employed on a one
35 hundred percent of work time basis. Such license shall permit the
36 holder thereof to practice dentistry within the confines of the
37 university facilities for a period of one year while he or she is so

1 employed as a full-time faculty member by the school of dentistry of
2 the University of Washington. It shall terminate whenever the holder
3 ceases to be such a full-time faculty member. Such license shall
4 permit the holder thereof to practice dentistry only in connection with
5 his or her duties in employment with the school of dentistry of the
6 University of Washington. This limitation shall be stated on the
7 license.

8 (2) The (~~board~~) commission may, upon written request of the dean
9 of the school of dentistry of the University of Washington, issue a
10 limited license to practice dentistry in this state to university
11 residents in postgraduate dental education. The license shall permit
12 the resident dentist to provide dental care only in connection with his
13 or her duties as a university resident.

14 (3) The (~~board~~) commission may condition the granting of a
15 license under this section with terms the (~~board~~) commission deems
16 appropriate. All persons licensed under this section shall be subject
17 to the jurisdiction of the (~~dental disciplinary board~~) commission to
18 the same extent as other members of the dental profession, in
19 accordance with this chapter, and in addition the licensee may be
20 disciplined by the (~~dental disciplinary board~~) commission after a
21 hearing has been held in accordance with the provisions set forth in
22 this chapter, and determination by the (~~dental disciplinary board~~)
23 commission that such licensee has violated any of the restrictions set
24 forth in this section.

25 (4) Persons applying for licensure pursuant to this section shall
26 pay the application fee determined by the secretary and, in the event
27 the license applied for is issued, a license fee at the rate provided
28 for licenses generally. After review by the (~~board of dental~~
29 ~~examiners~~) commission, licenses issued under this section may be
30 renewed annually if the licensee continues to be employed as a full-
31 time faculty member of the school of dentistry of the University of
32 Washington, or a university resident in postgraduate dental education,
33 and otherwise meets the requirements of the provisions and conditions
34 deemed appropriate by the (~~board of dental examiners~~) commission.
35 Any person who obtains a license pursuant to this section may, without
36 an additional application fee, apply for licensure under this chapter,
37 in which case the applicant shall be subject to examination and the
38 other requirements of this chapter.

1 **Sec. 219.** RCW 18.32.215 and 1989 c 202 s 30 are each amended to
2 read as follows:

3 An applicant holding a valid license and currently engaged in
4 practice in another state may be granted a license without examination
5 required by this chapter, on the payment of any required fees, if the
6 (~~board~~) commission determines that the other state's licensing
7 standards are substantively equivalent to the standards in this
8 state(~~(:—PROVIDED, That)~~). The (~~board~~) commission may also require
9 the applicant to: (1) File with the (~~board~~) commission documentation
10 certifying the applicant is licensed to practice in another state; and
11 (2) provide information as the (~~board~~) commission deems necessary
12 pertaining to the conditions and criteria of the Uniform Disciplinary
13 Act, chapter 18.130 RCW, and to demonstrate to the (~~board~~) commission
14 a knowledge of Washington law pertaining to the practice of dentistry.

15 **Sec. 220.** RCW 18.32.534 and 1991 c 3 s 72 are each amended to read
16 as follows:

17 (1) To implement an impaired dentist program as authorized by RCW
18 18.130.175, the (~~dental disciplinary board~~) commission shall enter
19 into a contract with a voluntary substance abuse monitoring program.
20 The impaired dentist program may include any or all of the following:

- 21 (a) Contracting with providers of treatment programs;
22 (b) Receiving and evaluating reports of suspected impairment from
23 any source;
24 (c) Intervening in cases of verified impairment;
25 (d) Referring impaired dentists to treatment programs;
26 (e) Monitoring the treatment and rehabilitation of impaired
27 dentists including those ordered by the (~~board~~) commission;
28 (f) Providing education, prevention of impairment, posttreatment
29 monitoring, and support of rehabilitated impaired dentists; and
30 (g) Performing other related activities as determined by the
31 (~~board~~) commission.

32 (2) A contract entered into under subsection (1) of this section
33 shall be financed by a surcharge of up to fifteen dollars on each
34 license issuance or renewal to be collected by the department of health
35 from every dentist licensed under chapter 18.32 RCW. These moneys
36 shall be placed in the health professions account to be used solely for
37 the implementation of the impaired dentist program.

1 **Sec. 221.** RCW 18.32.640 and 1988 c 217 s 1 are each amended to
2 read as follows:

3 (1) The ~~((board))~~ commission may adopt ~~((, amend, and rescind))~~ such
4 rules as it deems necessary to carry out this chapter.

5 (2) The ~~((board))~~ commission may adopt rules governing
6 administration of sedation and general anesthesia by persons licensed
7 under this chapter, including necessary training, education, equipment,
8 and the issuance of any permits, certificates, or registration as
9 required.

10 **Sec. 222.** RCW 18.32.655 and 1986 c 259 s 35 are each amended to
11 read as follows:

12 The ~~((dental disciplinary board has the power and it shall be its
13 duty to))~~ commission shall:

14 (1) Require licensed dentists to keep and maintain a copy of each
15 laboratory referral instruction, describing detailed services rendered,
16 for a period to be determined by the ~~((board))~~ commission but not more
17 than three years, and ~~((to))~~ may require the production of all such
18 records for examination by the ~~((board))~~ commission or its authorized
19 representatives; and

20 (2) ~~((Promulgate))~~ Adopt reasonable rules ~~((and regulations))~~
21 requiring licensed dentists to make, maintain, and produce for
22 examination by the ~~((board))~~ commission or its authorized
23 representatives such other records as may be reasonable and proper in
24 the performance of its duties and enforcing the provisions of this
25 chapter.

26 **Sec. 223.** RCW 18.32.665 and 1986 c 259 s 36 are each amended to
27 read as follows:

28 It shall be unlawful for any person, firm, or corporation to
29 publish, directly or indirectly, or circulate any fraudulent, false, or
30 misleading statements within the state of Washington as to the skill or
31 method of practice of any person or operator; or in any way to
32 advertise in print any matter with a view of deceiving the public, or
33 in any way that will tend to deceive or defraud the public; or to claim
34 superiority over neighboring dental practitioners; or to publish
35 reports of cases or certificates of same in any public advertising
36 media; or to advertise as using any anesthetic, drug, formula,
37 medicine, which is either falsely advertised or misnamed; or to employ

1 "capper" or "steerers" to obtain patronage; and any person committing
2 any offense against any of the provisions of this section shall, upon
3 conviction, be subjected to such penalties as are provided in this
4 chapter: PROVIDED, That any person licensed under this chapter may
5 announce credit, terms of credit or installment payments that may be
6 made at periodical intervals to apply on account of any dental service
7 rendered. The (~~dental disciplinary board~~) commission may adopt such
8 rules as are necessary to carry out the intent of this section.

9 **Sec. 224.** RCW 18.32.745 and 1991 c 3 s 73 are each amended to read
10 as follows:

11 No manager, proprietor, partnership, or association owning,
12 operating, or controlling any room, office, or dental parlors, where
13 dental work is done, provided, or contracted for, shall employ or
14 retain any unlicensed person or dentist as an operator; nor shall fail,
15 within ten days after demand made by the secretary of health(~~()~~) or
16 the (~~(state board of dental examiners, or the dental disciplinary~~
17 ~~board)~~) commission in writing sent by certified mail, addressed to any
18 such manager, proprietor, partnership, or association at (~~(said)~~) the
19 room, office, or dental parlor, to furnish the secretary of health(~~()~~)
20 or the (~~(state board of dental examiners, or the dental disciplinary~~
21 ~~board)~~) commission with the names and addresses of all persons
22 practicing or assisting in the practice of dentistry in his or her
23 place of business or under his or her control, together with a sworn
24 statement showing by what license or authority (~~(said)~~) the persons are
25 practicing dentistry.

26 The sworn statement shall not be used as evidence in any subsequent
27 court proceedings, except in a prosecution for perjury connected with
28 its execution.

29 Any violation of the provisions of this section (~~(shall~~
30 ~~constitute)~~) is improper, unprofessional, and dishonorable conduct; it
31 (~~(shall)~~) also (~~(constitute)~~) is grounds for injunction proceedings as
32 provided by this chapter, and in addition (~~(shall constitute)~~) is a
33 gross misdemeanor, except that the failure to furnish the information
34 as may be requested in accordance with this section (~~(shall~~
35 ~~constitute)~~) is a misdemeanor.

36 **Sec. 225.** RCW 18.32.755 and 1986 c 259 s 37 are each amended to
37 read as follows:

1 Any advertisement or announcement for dental services must include
2 for each office location advertised the names of all persons practicing
3 dentistry at that office location.

4 Any violation of the provisions of this section (~~shall~~
5 ~~constitute~~) is improper, unprofessional, and dishonorable conduct; it
6 (~~shall~~) also (~~constitute~~) is grounds for injunction proceedings as
7 provided by RCW 18.130.190(~~(+2)~~) (4), and in addition (~~shall~~
8 ~~constitute~~) is a gross misdemeanor.

9 NEW SECTION. Sec. 226. A new section is added to chapter 18.32
10 RCW to read as follows:

11 The commission is the successor in interest of the board of dental
12 examiners and the dental disciplinary board. All contracts,
13 undertakings, agreements, rules, regulations, and policies continue in
14 full force and effect on the effective date of this act, unless
15 otherwise repealed or rejected by chapter ..., Laws of 1994 (this act)
16 or by the commission.

17 NEW SECTION. Sec. 227. The following acts or parts of acts are
18 each repealed:

19 (1) RCW 18.32.035 and 1989 c 202 s 14, 1984 c 279 s 50, 1979 c 38
20 s 1, 1975 c 49 s 1, 1953 c 93 s 2, 1941 c 92 s 1, & 1935 c 112 s 2;

21 (2) RCW 18.32.037 and 1991 c 3 s 60, 1989 c 202 s 15, & 1935 c 112
22 s 3;

23 (3) RCW 18.32.042 and 1989 c 202 s 28;

24 (4) RCW 18.32.500 and 1989 c 202 s 24, 1986 c 259 s 39, & 1977
25 ex.s. c 5 s 37;

26 (5) RCW 18.32.510 and 1977 ex.s. c 5 s 1;

27 (6) RCW 18.32.520 and 1991 c 3 s 71, 1989 c 202 s 25, 1986 c 259 s
28 40, 1979 c 158 s 36, & 1977 ex.s. c 5 s 2;

29 (7) RCW 18.32.560 and 1984 c 279 s 51 & 1977 ex.s. c 5 s 6;

30 (8) RCW 18.32.570 and 1977 ex.s. c 5 s 7;

31 (9) RCW 18.32.580 and 1977 ex.s. c 5 s 8;

32 (10) RCW 18.32.590 and 1977 ex.s. c 5 s 9;

33 (11) RCW 18.32.600 and 1984 c 287 s 31 & 1977 ex.s. c 5 s 10;

34 (12) RCW 18.32.610 and 1977 ex.s. c 5 s 11; and

35 (13) RCW 18.32.620 and 1984 c 279 s 62 & 1977 ex.s. c 5 s 12.

36 **MEDICAL**

1 NEW SECTION. Sec. 301. A new section is added to chapter 18.71
2 RCW to read as follows:

3 It is the purpose of the medical quality assurance commission to
4 regulate the competency and quality of professional health care
5 providers under its jurisdiction by establishing, monitoring, and
6 enforcing qualifications for licensing, consistent standards of
7 practice, continuing competency mechanisms, and discipline. Rules,
8 policies, and procedures developed by the commission must promote the
9 delivery of quality health care to the residents of the state of
10 Washington.

11 **Sec. 302.** RCW 18.71.010 and 1991 c 3 s 158 are each amended to
12 read as follows:

13 The following terms used in this chapter shall have the meanings
14 set forth in this section unless the context clearly indicates
15 otherwise:

16 (1) (~~("Board" means the board of medical examiners)~~) "Commission"
17 means the Washington state medical quality assurance commission.

18 (2) "Secretary" means the secretary of health.

19 (3) "Resident physician" means an individual who has graduated from
20 a school of medicine which meets the requirements set forth in RCW
21 18.71.055 and is serving a period of postgraduate clinical medical
22 training sponsored by a college or university in this state or by a
23 hospital accredited by this state. For purposes of this chapter, the
24 term shall include individuals designated as intern or medical fellow.

25 (4) "Emergency medical care" or "emergency medical service" has the
26 same meaning as in chapter 18.73 RCW.

27 **Sec. 303.** RCW 18.71.015 and 1991 c 44 s 1 and 1991 c 3 s 159 are
28 each reenacted and amended to read as follows:

29 (~~(There is hereby created a board of medical examiners consisting
30 of six individuals licensed to practice medicine in the state of
31 Washington, one individual who is licensed as a physician assistant
32 under chapter 18.71A RCW, and two individuals who are not physicians,
33 to be known as the Washington state board of medical examiners.))~~) The
34 Washington state medical quality assurance commission is established,
35 consisting of thirteen individuals licensed to practice medicine in the
36 state of Washington under this chapter, two individuals who are
37 licensed as physician assistants under chapter 18.71A RCW, and four

1 individuals who are members of the public. Each congressional district
2 now existing or hereafter created in the state must be represented by
3 at least one physician member of the commission. The terms of office
4 of members of the commission are not affected by changes in
5 congressional district boundaries. Public members of the commission
6 may not be a member of any other health care licensing board or
7 commission, or have a fiduciary obligation to a facility rendering
8 health services regulated by the commission, or have a material or
9 financial interest in the rendering of health services regulated by the
10 commission.

11 The ~~((board))~~ members of the commission shall be appointed by the
12 governor. ~~((On expiration of the term of any member, the governor~~
13 ~~shall appoint for a period of five years an individual of similar~~
14 ~~qualifications to take the place of such member.))~~ Members of the
15 initial commission may be appointed to staggered terms of one to four
16 years, and thereafter all terms of appointment shall be for four years.
17 The governor shall consider such physician and physician assistant
18 members who are recommended for appointment by the appropriate
19 professional associations in the state. In appointing the initial
20 members of the commission, it is the intent of the legislature that, to
21 the extent possible, the existing members of the board of medical
22 examiners and medical disciplinary board repealed under section 336,
23 chapter . . . , Laws of 1994 (this act) be appointed to the commission.
24 No member may serve more than two consecutive full terms. Each member
25 shall hold office until ~~((the expiration of the term for which such~~
26 member is appointed or until)) a successor ~~((shall have been))~~ is
27 appointed ~~((and shall have qualified))~~.

28 Each member of the ~~((board shall))~~ commission must be a citizen of
29 the United States, must be an actual resident of this state, and, if a
30 physician, must have been licensed to practice medicine in this state
31 for at least five years.

32 The ~~((board))~~ commission shall meet as soon as practicable after
33 appointment and elect ~~((a chair and, a vice chair from its members))~~
34 officers each year. Meetings shall be held at least four times a year
35 and at such place as the ~~((board shall))~~ commission determines and at
36 such other times and places as the ~~((board))~~ commission deems
37 necessary. A majority of the ~~((board))~~ commission members appointed
38 and serving ~~((shall))~~ constitutes a quorum for the transaction of
39 ~~((board))~~ commission business.

1 (~~It shall require~~) The affirmative vote of a majority of a quorum
2 of the (~~board~~) ~~commission~~ is required to carry any motion or
3 resolution, to adopt any rule, or to pass any measure. The commission
4 may appoint panels consisting of at least three members. A quorum for
5 the transaction of any business by a panel is a minimum of three
6 members. A majority vote of (~~the members appointed to a panel of the~~
7 ~~board shall constitute~~) a quorum (~~for~~) of the panel is required to
8 transact business delegated to it by the (~~board~~) ~~commission~~.

9 Each member of the (~~board~~) ~~commission~~ shall be compensated in
10 accordance with RCW 43.03.240 and in addition thereto shall be
11 reimbursed for travel expenses incurred in carrying out the duties of
12 the (~~board~~) ~~commission~~ in accordance with RCW 43.03.050 and
13 43.03.060. Any such expenses shall be paid from funds appropriated to
14 the department of health.

15 (~~Any member of the board may be removed by the governor for~~)
16 Whenever the governor is satisfied that a member of a commission has
17 been guilty of neglect of duty, misconduct, or malfeasance or
18 misfeasance in office, the governor shall file with the secretary of
19 state a statement of the causes for and the order of removal from
20 office, and the secretary shall forthwith send a certified copy of the
21 statement of causes and order of removal to the last known post office
22 address of the member.

23 Vacancies in the membership of the (~~board~~) ~~commission~~ shall be
24 filled for the unexpired term by appointment by the governor.

25 The members of the commission are immune from suit in an action,
26 civil or criminal, based on its disciplinary proceedings or other
27 official acts performed in good faith as members of the commission.

28 Whenever the workload of the commission requires, the commission
29 may request that the secretary appoint pro tempore members of the
30 commission. When serving, pro tempore members of the commission have
31 all of the powers, duties, and immunities, and are entitled to all of
32 the emoluments, including travel expenses, of regularly appointed
33 members of the commission.

34 **Sec. 304.** RCW 18.71.017 and 1961 c 284 s 11 are each amended to
35 read as follows:

36 The board may (~~make~~) adopt such rules (~~and regulations~~) as are
37 not inconsistent with the laws of this state as may be determined
38 necessary or proper to carry out the purposes of this chapter. The

1 commission is the successor in interest of the board of medical
2 examiners and the medical disciplinary board. All contracts,
3 undertakings, agreements, rules, regulations, and policies continue in
4 full force and effect on the effective date of this act, unless
5 otherwise repealed or rejected by this chapter or by the commission.

6 **Sec. 305.** RCW 18.71.019 and 1987 c 150 s 45 are each amended to
7 read as follows:

8 The Uniform Disciplinary Act, chapter 18.130 RCW, governs
9 unlicensed practice and the issuance and denial of licenses and
10 discipline of licensees under this chapter.

11 **Sec. 306.** RCW 18.71.030 and 1990 c 196 s 12 and 1990 c 33 s 552
12 are each reenacted and amended to read as follows:

13 Nothing in this chapter shall be construed to apply to or interfere
14 in any way with the practice of religion or any kind of treatment by
15 prayer; nor shall anything in this chapter be construed to prohibit:

16 (1) The furnishing of medical assistance in cases of emergency
17 requiring immediate attention;

18 (2) The domestic administration of family remedies;

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

22 (4) The practice of dentistry, osteopathy, osteopathy and surgery,
23 nursing, chiropractic, (~~podiatry~~) podiatric medicine and surgery,
24 optometry, naturopathy, or any other healing art licensed under the
25 methods or means permitted by such license;

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

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

36 (7) The practice of medicine by a person who is a regular student
37 in a school of medicine approved and accredited by the (~~board~~)

1 commission, however, the performance of such services be only pursuant
2 to a regular course of instruction or assignments from his or her
3 instructor, or that such services are performed only under the
4 supervision and control of a person licensed pursuant to this chapter;

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

10 (9) The practice of medicine by a person who is regularly enrolled
11 in a physician assistant program approved by the (~~board~~) commission,
12 however, the performance of such services (~~shall~~) shall be only
13 pursuant to a regular course of instruction in said program and such
14 services are performed only under the supervision and control of a
15 person licensed pursuant to this chapter;

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

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

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

33 (13) Emergency lifesaving service rendered by a physician's trained
34 mobile intravenous therapy technician, by a physician's trained mobile
35 airway management technician, or by a physician's trained mobile
36 intensive care paramedic, as defined in RCW 18.71.200, if the emergency
37 lifesaving service is rendered under the responsible supervision and
38 control of a licensed physician;

1 (14) The provision of clean, intermittent bladder catheterization
2 for students by public school district employees or private school
3 employees as provided for in RCW ((18.88.295)) 18.---.--- (section 429
4 of this act) and 28A.210.280.

5 **Sec. 307.** RCW 18.71.050 and 1991 c 3 s 161 are each amended to
6 read as follows:

7 (1) Each applicant who has graduated from a school of medicine
8 located in any state, territory, or possession of the United States,
9 the District of Columbia, or the Dominion of Canada, shall file an
10 application for licensure with the ((~~board~~)) commission on a form
11 prepared by the secretary with the approval of the ((~~board~~))
12 commission. Each applicant shall furnish proof satisfactory to the
13 ((~~board~~)) commission of the following:

14 (a) That the applicant has attended and graduated from a school of
15 medicine approved by the ((~~board~~)) commission;

16 (b) That the applicant has completed two years of postgraduate
17 medical training in a program acceptable to the ((~~board~~)) commission,
18 provided that applicants graduating before July 28, 1985, may complete
19 only one year of postgraduate medical training;

20 (c) That the applicant is of good moral character; and

21 (d) That the applicant is physically and mentally capable of safely
22 carrying on the practice of medicine. The ((~~board~~)) commission may
23 require any applicant to submit to such examination or examinations as
24 it deems necessary to determine an applicant's physical and/or mental
25 capability to safely practice medicine.

26 (2) Nothing in this section shall be construed as prohibiting the
27 ((~~board~~)) commission from requiring such additional information from
28 applicants as it deems necessary. The issuance and denial of licenses
29 are subject to chapter 18.130 RCW, the Uniform Disciplinary Act.

30 **Sec. 308.** RCW 18.71.051 and 1991 c 3 s 162 are each amended to
31 read as follows:

32 Applicants for licensure to practice medicine who have graduated
33 from a school of medicine located outside of the states, territories,
34 and possessions of the United States, the District of Columbia, or the
35 Dominion of Canada, shall file an application for licensure with the
36 ((~~board~~)) commission on a form prepared by the secretary with the

1 approval of the ((~~board~~)) commission. Each applicant shall furnish
2 proof satisfactory to the ((~~board~~)) commission of the following:

3 (1) That he or she has completed in a school of medicine a resident
4 course of professional instruction equivalent to that required in this
5 chapter for applicants generally;

6 (2) That he or she meets all the requirements which must be met by
7 graduates of the United States and Canadian school of medicine except
8 that he or she need not have graduated from a school of medicine
9 approved by the ((~~board~~)) commission;

10 (3) That he or she has satisfactorily passed the examination given
11 by the educational council for foreign medical graduates or has met the
12 requirements in lieu thereof as set forth in rules ((~~and regulations~~))
13 adopted by the ((~~board~~)) commission;

14 (4) That he or she has the ability to read, write, speak,
15 understand, and be understood in the English language.

16 **Sec. 309.** RCW 18.71.055 and 1975 1st ex.s. c 171 s 8 are each
17 amended to read as follows:

18 The ((~~board~~)) commission may approve any school of medicine which
19 is located in any state, territory, or possession of the United States,
20 the District of Columbia, or in the Dominion of Canada, provided that
21 it:

22 (1) Requires collegiate instruction which includes courses deemed
23 by the ((~~board~~)) commission to be prerequisites to medical education;

24 (2) Provides adequate instruction in the following subjects:
25 Anatomy, biochemistry, microbiology and immunology, pathology,
26 pharmacology, physiology, anaesthesiology, dermatology, gynecology,
27 internal medicine, neurology, obstetrics, ((~~ophthalmology~~))
28 ophthalmology, orthopedic surgery, otolaryngology, pediatrics, physical
29 medicine and rehabilitation, preventive medicine and public health,
30 psychiatry, radiology, surgery, and urology, and such other subjects
31 determined by the ((~~board~~)) commission;

32 (3) Provides clinical instruction in hospital wards and out-patient
33 clinics under guidance.

34 Approval may be withdrawn by the ((~~board~~)) commission at any time
35 a medical school ceases to comply with one or more of the requirements
36 of this section.

37 (4) Nothing in this section shall be construed to authorize the
38 ((~~board~~)) commission to approve a school of osteopathy, osteopathy and

1 surgery, or osteopathic medicine, for purposes of qualifying an
2 applicant to be licensed under this chapter by direct licensure,
3 reciprocity, or otherwise.

4 **Sec. 310.** RCW 18.71.060 and 1975 1st ex.s. c 171 s 9 are each
5 amended to read as follows:

6 ((Said board)) The commission shall keep an official record of all
7 its proceedings, a part of which record shall consist of a register of
8 all applicants for licensure under this chapter, with the result of
9 each application. ((Said)) The record shall be evidence of all the
10 proceedings of ((said board which)) the commission that are set forth
11 ((therein)) in it.

12 **Sec. 311.** RCW 18.71.070 and 1985 c 322 s 3 are each amended to
13 read as follows:

14 With the exception of those applicants granted licensure through
15 the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure
16 must successfully complete an examination administered by the ((board))
17 commission to determine their professional qualifications. The
18 ((board)) commission shall prepare and give, or approve the preparation
19 and giving of, an examination which shall cover those general subjects
20 and topics, a knowledge of which is commonly and generally required of
21 candidates for the degree of doctor of medicine conferred by approved
22 colleges or schools of medicine in the United States. Notwithstanding
23 any other provision of law, the ((board shall have)) commission has the
24 sole responsibility for determining the proficiency of applicants under
25 this chapter, and, in so doing, may waive any prerequisite to licensure
26 not set forth in this chapter.

27 The ((board)) commission may by rule establish the passing grade
28 for the examination.

29 Examination results shall be part of the records of the ((board))
30 commission and shall be permanently kept with the applicant's file.

31 **Sec. 312.** RCW 18.71.080 and 1991 c 195 s 1 and 1991 c 3 s 163 are
32 each reenacted and amended to read as follows:

33 Every person licensed to practice medicine in this state shall
34 register with the secretary of health annually, and pay an annual
35 renewal registration fee determined by the secretary as provided in RCW
36 43.70.250. The ((board)) commission may establish rules governing

1 mandatory continuing education requirements which shall be met by
2 physicians applying for renewal of licenses. The rules (~~and~~
3 ~~regulations~~) shall provide that mandatory continuing education
4 requirements may be met in part by physicians showing evidence of the
5 completion of approved activities relating to professional liability
6 risk management. Any failure to register and pay the annual renewal
7 registration fee shall render the license invalid, but such license
8 shall be reinstated upon written application therefor to the secretary,
9 and payment to the state of a penalty fee determined by the secretary
10 as provided in RCW 43.70.250, together with all delinquent annual
11 license renewal fees: PROVIDED, HOWEVER, That any person who fails to
12 renew the license for a period of three years, shall in no event be
13 entitled to renew the license under this section. Such a person in
14 order to obtain a license to practice medicine in this state, shall
15 file an original application as provided for in this chapter, along
16 with the requisite fee therefor. The (~~board~~) commission, in its sole
17 discretion, may permit such applicant to be licensed without
18 examination if it is satisfied that such applicant meets all the
19 requirements for licensure in this state, and is competent to engage in
20 the practice of medicine.

21 **Sec. 313.** RCW 18.71.085 and 1991 c 44 s 2 are each amended to read
22 as follows:

23 The (~~board~~) commission may adopt rules pursuant to this section
24 authorizing an inactive license status.

25 (1) An individual licensed pursuant to chapter 18.71 RCW may place
26 his or her license on inactive status. The holder of an inactive
27 license shall not practice medicine and surgery in this state without
28 first activating the license.

29 (2) The inactive renewal fee shall be established by the secretary
30 pursuant to RCW 43.70.250. Failure to renew an inactive license shall
31 result in cancellation in the same manner as an active license.

32 (3) An inactive license may be placed in an active status upon
33 compliance with rules established by the (~~board~~) commission.

34 (4) Provisions relating to disciplinary action against a person
35 with a license shall be applicable to a person with an inactive
36 license, except that when disciplinary proceedings against a person
37 with an inactive license have been initiated, the license shall remain
38 inactive until the proceedings have been completed.

1 **Sec. 314.** RCW 18.71.090 and 1985 c 322 s 5 are each amended to
2 read as follows:

3 Any applicant who meets the requirements of RCW 18.71.050 and has
4 been licensed under the laws of another state, territory, or possession
5 of the United States, or of any province of Canada, or an applicant who
6 has satisfactorily passed examinations given by the national board of
7 medical examiners may, in the discretion of the ((board)) commission,
8 be granted a license without examination on the payment of the fees
9 required by this chapter: PROVIDED, That the applicant must file with
10 the ((board)) commission a copy of the license certified by the proper
11 authorities of the issuing state to be a full, true copy thereof, and
12 must show that the standards, eligibility requirements, and
13 examinations of that state are at least equal in all respects to those
14 of this state.

15 **Sec. 315.** RCW 18.71.095 and 1991 c 3 s 164 are each amended to
16 read as follows:

17 The ((board)) commission may, without examination, issue a limited
18 license to persons who possess the qualifications set forth herein:

19 (1) The ((board)) commission may, upon the written request of the
20 secretary of the department of social and health services or the
21 secretary of corrections, issue a limited license to practice medicine
22 in this state to persons who have been accepted for employment by the
23 department of social and health services or the department of
24 corrections as physicians; who are licensed to practice medicine in
25 another state of the United States or in the country of Canada or any
26 province or territory thereof; and who meet all of the qualifications
27 for licensure set forth in RCW 18.71.050.

28 Such license shall permit the holder thereof to practice medicine
29 only in connection with patients, residents, or inmates of the state
30 institutions under the control and supervision of the secretary of the
31 department of social and health services or the department of
32 corrections.

33 (2) The ((board)) commission may issue a limited license to
34 practice medicine in this state to persons who have been accepted for
35 employment by a county or city health department as physicians; who are
36 licensed to practice medicine in another state of the United States or
37 in the country of Canada or any province or territory thereof; and who

1 meet all of the qualifications for licensure set forth in RCW
2 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~~)) commission, the ((~~board~~)) commission may
12 issue a limited license to a resident physician. Such license shall
13 permit the resident physician to practice medicine only in connection
14 with his or her duties as a resident physician and shall not authorize
15 the physician to engage in any other form of practice. Each resident
16 physician shall practice medicine only under the supervision and
17 control of a physician licensed in this state, but such supervision and
18 control shall not be construed to necessarily require the personal
19 presence of the supervising physician at the place where services are
20 rendered.

21 (4)(a) Upon nomination by the dean of the school of medicine at the
22 University of Washington or the chief executive officer of a hospital
23 or other appropriate health care facility licensed in the state of
24 Washington, the ((~~board~~)) commission may issue a limited license to a
25 physician applicant invited to serve as a teaching-research member of
26 the institution's instructional staff if the sponsoring institution and
27 the applicant give evidence that he or she has graduated from a
28 recognized medical school and has been licensed or otherwise privileged
29 to practice medicine at his or her location of origin. Such license
30 shall permit the recipient to practice medicine only within the
31 confines of the instructional program specified in the application and
32 shall terminate whenever the holder ceases to be involved in that
33 program, or at the end of one year, whichever is earlier. Upon request
34 of the applicant and the institutional authority, the license may be
35 renewed for no more than a total of two years.

36 (b) Upon nomination by the dean of the school of medicine of the
37 University of Washington or the chief executive officer of any hospital
38 or appropriate health care facility licensed in the state of
39 Washington, the ((~~board~~)) commission may issue a limited license to an

1 applicant selected by the sponsoring institution to be enrolled in one
2 of its designated departmental or divisional fellowship programs
3 provided that the applicant shall have graduated from a recognized
4 medical school and has been granted a license or other appropriate
5 certificate to practice medicine in the location of the applicant's
6 origin. Such license shall permit the holder only to practice medicine
7 within the confines of the fellowship program to which he or she has
8 been appointed and, upon the request of the applicant and the
9 sponsoring institution, the license may be renewed by the (~~board~~)
10 commission for no more than a total of two years.

11 All persons licensed under this section shall be subject to the
12 jurisdiction of the (~~medical disciplinary board~~) commission to the
13 same extent as other members of the medical profession, in accordance
14 with this chapter and chapter(~~s 18.72 and~~) 18.130 RCW.

15 Persons applying for licensure pursuant to this section shall pay
16 an application fee determined by the secretary as provided in RCW
17 43.70.250 and, in the event the license applied for is issued, a
18 license fee at the rate provided for renewals of licenses generally.
19 Licenses issued hereunder may be renewed annually pursuant to the
20 provisions of RCW 18.71.080. Any person who obtains a limited license
21 pursuant to this section may, without an additional application fee,
22 apply for licensure under this chapter, but shall submit a new
23 application form and comply with all other licensing requirements of
24 this chapter.

25 **Sec. 316.** RCW 18.71.205 and 1992 c 128 s 1 are each amended to
26 read as follows:

27 (1) The secretary of the department of health, in conjunction with
28 the advice and assistance of the emergency medical services licensing
29 and certification advisory committee as prescribed in RCW 18.73.050,
30 and the (~~board of medical examiners~~) commission, shall prescribe:

31 (a) Minimum standards and performance requirements for the
32 certification and recertification of physician's trained intravenous
33 therapy technicians, airway management technicians, and mobile
34 intensive care paramedics; and

35 (b) Procedures for certification, recertification, and
36 decertification of physician's trained intravenous therapy technicians,
37 airway management technicians, and mobile intensive care paramedics.

38 (2) Initial certification shall be for a period of three years.

1 (3) Recertification shall be granted upon proof of continuing
2 satisfactory performance and education, and shall be for a period of
3 three years.

4 (4) As used in chapters 18.71 and 18.73 RCW, "approved medical
5 program director" means a person who:

6 (a) Is licensed to practice medicine and surgery pursuant to
7 chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57
8 RCW; and

9 (b) Is qualified and knowledgeable in the administration and
10 management of emergency care and services; and

11 (c) Is so certified by the department of health for a county, group
12 of counties, or cities with populations over four hundred thousand in
13 coordination with the recommendations of the local medical community
14 and local emergency medical services and trauma care council.

15 (5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs
16 uncertified practice, the issuance and denial of certificates, and the
17 disciplining of certificate holders under this section. The secretary
18 shall be the disciplining authority under this section. Disciplinary
19 action shall be initiated against a person credentialed under this
20 chapter in a manner consistent with the responsibilities and duties of
21 the medical program director under whom such person is responsible.

22 **Sec. 317.** RCW 18.71.230 and 1986 c 259 s 112 are each amended to
23 read as follows:

24 A right to practice medicine and surgery by an individual in this
25 state pursuant to RCW 18.71.030 (5) through (12) shall be subject to
26 discipline by order of the (~~board~~) commission upon a finding by the
27 (~~board~~) commission of an act of unprofessional conduct as defined in
28 RCW 18.130.180 or that the individual is unable to practice with
29 reasonable skill or safety due to a mental or physical condition as
30 described in RCW 18.130.170. Such physician shall have the same rights
31 of notice, hearing, and judicial review as provided licensed physicians
32 generally (~~pursuant to chapters 18.72 and~~) under this chapter and
33 chapter 18.130 RCW.

34 **Sec. 318.** RCW 18.71A.010 and 1990 c 196 s 1 are each amended to
35 read as follows:

36 The definitions set forth in this section apply throughout this
37 chapter.

1 (1) "Physician assistant" means a person who is licensed by the
2 (~~board~~) commission to practice medicine to a limited extent only
3 under the supervision of a physician as defined in chapter 18.71 RCW
4 and who is academically and clinically prepared to provide health care
5 services and perform diagnostic, therapeutic, preventative, and health
6 maintenance services.

7 (2) "~~(Board)~~ Commission" means the (~~board of medical examiners~~)
8 medical quality assurance commission.

9 (3) "Practice medicine" (~~shall have~~) has the meaning defined in
10 RCW 18.71.011.

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

13 (5) "Department" means the department of health.

14 **Sec. 319.** RCW 18.71A.020 and 1993 c 28 s 5 are each amended to
15 read as follows:

16 (1) The (~~board~~) commission shall adopt rules fixing the
17 qualifications and the educational and training requirements for
18 licensure as a physician assistant or for those enrolled in any
19 physician assistant training program. The requirements shall include
20 completion of an accredited physician assistant training program
21 approved by the (~~board~~) commission and eligibility to take an
22 examination approved by the (~~board, provided such~~) commission, if the
23 examination tests subjects substantially equivalent to the curriculum
24 of an accredited physician assistant training program. Physician
25 assistants licensed by the board of medical examiners as of June 7,
26 1990, shall continue to be licensed.

27 (2)(a) The (~~board~~) commission shall adopt rules governing the
28 extent to which:

29 (i) Physician assistant students may practice medicine during
30 training; and

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

33 (b) Such rules shall provide:

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

36 (ii) That each physician assistant shall practice medicine only
37 under the supervision and control of a physician licensed in this
38 state, but such supervision and control shall not be construed to

1 necessarily require the personal presence of the supervising physician
2 or physicians at the place where services are rendered.

3 (3) Applicants for licensure shall file an application with the
4 ((~~board~~)) commission on a form prepared by the secretary with the
5 approval of the ((~~board~~)) commission, detailing the education,
6 training, and experience of the physician assistant and such other
7 information as the ((~~board~~)) commission may require. The application
8 shall be accompanied by a fee determined by the secretary as provided
9 in RCW 43.70.250. Each applicant shall furnish proof satisfactory to
10 the ((~~board~~)) commission of the following:

11 (a) That the applicant has completed an accredited physician
12 assistant program approved by the ((~~board~~)) commission and is eligible
13 to take the examination approved by the ((~~board~~)) commission;

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

15 (c) That the applicant is physically and mentally capable of
16 practicing medicine as a physician assistant with reasonable skill and
17 safety. The ((~~board~~)) commission may require an applicant to submit to
18 such examination or examinations as it deems necessary to determine an
19 applicant's physical or mental capability, or both, to safely practice
20 as a physician assistant.

21 (4) The ((~~board~~)) commission may approve, deny, or take other
22 disciplinary action upon the application for license as provided in the
23 Uniform Disciplinary Act, chapter 18.130 RCW. The license shall be
24 renewed on a periodic basis as determined by the secretary under RCW
25 43.70.280, upon payment of a fee determined by the secretary as
26 provided in RCW 43.70.250, and submission of a completed renewal
27 application, in addition to any late renewal penalty fees as determined
28 by the secretary as provided in RCW 43.70.250. The ((~~board~~))
29 commission may authorize the use of alternative supervisors who are
30 licensed either under chapter 18.57 or 18.71 RCW.

31 **Sec. 320.** RCW 18.71A.030 and 1993 c 28 s 6 are each amended to
32 read as follows:

33 A physician assistant (~~(as defined in this chapter)~~) may practice
34 medicine in this state only with the approval of the practice
35 arrangement plan by the ((~~board~~)) commission and only to the extent
36 permitted by the ((~~board~~)) commission. A physician assistant who has
37 received a license but who has not received ((~~board~~)) commission
38 approval of the practice arrangement plan under RCW 18.71A.040 may not

1 practice. A physician assistant shall be subject to discipline under
2 chapter 18.130 RCW.

3 **Sec. 321.** RCW 18.71A.040 and 1993 c 28 s 7 are each amended to
4 read as follows:

5 (1) No physician assistant practicing in this state shall be
6 employed or supervised by a physician or physician group without the
7 approval of the ~~((board))~~ commission.

8 (2) Prior to commencing practice, a physician assistant licensed in
9 this state shall apply to the ~~((board))~~ commission for permission to be
10 employed or supervised by a physician or physician group. The practice
11 arrangement plan shall be jointly submitted by the physician or
12 physician group and physician assistant. The secretary may charge a
13 fee as provided in RCW 43.70.250 to recover the cost for the plan
14 review. The practice arrangement plan shall delineate the manner and
15 extent to which the physician assistant would practice and be
16 supervised. Whenever a physician assistant is practicing in a manner
17 inconsistent with the approved practice arrangement plan, the medical
18 disciplinary board may take disciplinary action under chapter 18.130
19 RCW.

20 **Sec. 322.** RCW 18.71A.045 and 1988 c 113 s 2 are each amended to
21 read as follows:

22 Foreign medical school graduates shall not be eligible for
23 ~~((registration))~~ licensing as physician assistants after July 1, 1989.
24 ~~((Those applying on or before that date shall remain eligible to
25 register as a physician assistant after July 1, 1989: PROVIDED, That
26 the graduate does not violate chapter 18.130 RCW or the rules of the
27 board. The board shall adopt rules regarding applications for
28 registration. The rules shall include board approval of training as
29 required in RCW 18.71.051(1) and receipt of original translated
30 transcripts directly from the medical school.))~~

31 **Sec. 323.** RCW 18.71A.050 and 1993 c 28 s 8 are each amended to
32 read as follows:

33 No physician who supervises a licensed physician assistant in
34 accordance with and within the terms of any permission granted by the
35 ~~((medical examining board shall be))~~ commission is considered as aiding
36 and abetting an unlicensed person to practice medicine. The

1 supervising physician and physician assistant shall retain professional
2 and personal responsibility for any act which constitutes the practice
3 of medicine as defined in RCW 18.71.011 when performed by the physician
4 assistant.

5 **Sec. 324.** RCW 18.71A.060 and 1990 c 196 s 6 are each amended to
6 read as follows:

7 No health care services may be performed under this chapter in any
8 of the following areas:

9 (1) The measurement of the powers or range of human vision, or the
10 determination of the accommodation and refractive state of the human
11 eye or the scope of its functions in general, or the fitting or
12 adaptation of lenses or frames for the aid thereof.

13 (2) The prescribing or directing the use of, or using, any optical
14 device in connection with ocular exercises, visual training, vision
15 training, or orthoptics.

16 (3) The prescribing of contact lenses for, or the fitting or
17 adaptation of contact lenses to, the human eye.

18 (4) Nothing in this section shall preclude the performance of
19 routine visual screening.

20 (5) The practice of dentistry or dental hygiene as defined in
21 chapters 18.32 and 18.29 RCW respectively. The exemptions set forth in
22 RCW 18.32.030(~~(, paragraphs)~~) (1) and (8), shall not apply to a
23 physician assistant.

24 (6) The practice of chiropractic as defined in chapter 18.25 RCW
25 including the adjustment or manipulation of the articulations of the
26 spine.

27 (7) The practice of (~~podiatry~~) podiatric medicine and surgery as
28 defined in chapter 18.22 RCW.

29 **Sec. 325.** RCW 18.71A.085 and 1990 c 196 s 10 are each amended to
30 read as follows:

31 Any physician assistant acupuncturist currently licensed by the
32 (~~board~~) commission may continue to perform acupuncture under the
33 physician assistant license as long as he or she maintains licensure as
34 a physician assistant.

35 **Sec. 326.** RCW 18.72.155 and 1991 c 3 s 168 are each amended to
36 read as follows:

1 The secretary of the department of health shall appoint, from a
2 list of three names supplied by the (~~board~~) commission, an executive
3 (~~secretary~~) director who shall act to carry out the provisions of
4 this chapter. The secretary shall also employ such additional staff
5 including administrative assistants, investigators, and clerical staff
6 as are required to enable the (~~board~~) commission to accomplish its
7 duties and responsibilities. The executive (~~secretary shall be~~)
8 director is exempt from the provisions of the civil service law,
9 chapter 41.06 RCW, as now or hereafter amended.

10 **Sec. 327.** RCW 18.72.165 and 1986 c 300 s 5 are each amended to
11 read as follows:

12 (1) A licensed health care professional licensed under this chapter
13 (~~18.71 RCW~~) shall report to the (~~medical disciplinary board~~)
14 commission when he or she has personal knowledge that a practicing
15 physician has either committed an act or acts which may constitute
16 statutorily defined unprofessional conduct or that a practicing
17 physician may be unable to practice medicine with reasonable skill and
18 safety to patients by reason of illness, drunkenness, excessive use of
19 drugs, narcotics, chemicals, or any other type of material, or as a
20 result of any mental or physical conditions.

21 (2) Reporting under this section is not required by:

22 (a) An appropriately appointed peer review committee member of a
23 licensed hospital or by an appropriately designated professional review
24 committee member of a county or state medical society during the
25 investigative phase of their respective operations if these
26 investigations are completed in a timely manner; or

27 (b) A treating licensed health care professional of a physician
28 currently involved in a treatment program as long as the physician
29 patient actively participates in the treatment program and the
30 physician patient's impairment does not constitute a clear and present
31 danger to the public health, safety, or welfare.

32 (3) The (~~medical disciplinary board~~) commission may impose
33 disciplinary sanctions, including license suspension or revocation, on
34 any health care professional subject to the jurisdiction of the
35 (~~board~~) commission who has failed to comply with this section.

36 **Sec. 328.** RCW 18.72.265 and 1986 c 259 s 117 are each amended to
37 read as follows:

1 (1) The contents of any report file under RCW 18.130.070 shall be
2 confidential and exempt from public disclosure pursuant to chapter
3 42.17 RCW, except that it may be reviewed (a) by the licensee involved
4 or his or her counsel or authorized representative who may submit any
5 additional exculpatory or explanatory statements or other information,
6 which statements or other information shall be included in the file, or
7 (b) by a representative of the (~~medical disciplinary board~~)
8 commission, or investigator thereof, who has been assigned to review
9 the activities of a licensed physician.

10 Upon a determination that a report is without merit, the
11 (~~board's~~) commission's records may be purged of information relating
12 to the report.

13 (2) Every individual, medical association, medical society,
14 hospital, medical service bureau, health insurance carrier or agent,
15 professional liability insurance carrier, professional standards review
16 organization, and agency of the federal, state, or local government
17 shall be immune from civil liability, whether direct or derivative, for
18 providing information to the (~~board subsequent to~~) commission under
19 RCW 18.130.070, or for which an individual health care provider has
20 immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260(~~as
21 now or hereafter amended~~)).

22 **Sec. 329.** RCW 18.72.301 and 1989 c 119 s 1 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout RCW 18.72.306 through 18.72.321 (as
26 recodified by this act).

27 (1) (~~"Board" means the medical disciplinary board of this state.~~
28 ~~(2)~~) "Committee" means a nonprofit corporation formed by
29 physicians who have expertise in the areas of alcoholism, drug abuse,
30 or mental illness and who broadly represent the physicians of the state
31 and that has been designated to perform any or all of the activities
32 set forth in RCW 18.72.306(1) (as recodified by this act) pursuant to
33 rules adopted by the (~~board~~) commission under chapter 34.05 RCW.

34 (~~(3)~~) (2) "Impaired" or "impairment" means the presence of the
35 diseases of alcoholism, drug abuse, mental illness, or other
36 debilitating conditions.

37 (~~(4)~~) (3) "Impaired physician program" means the program for the
38 prevention, detection, intervention, and monitoring of impaired

1 physicians established by the ((~~board~~)) commission pursuant to RCW
2 18.72.306(1) (as recodified by this act).

3 ((~~+5~~)) (4) "Physician" means a person licensed under this chapter
4 ((~~18.71 RCW~~)).

5 ((~~+6~~)) (5) "Treatment program" means a plan of care and
6 rehabilitation services provided by those organizations or persons
7 authorized to provide such services to be approved by the ((~~board~~))
8 commission for impaired physicians taking part in the impaired
9 physician program created by RCW 18.72.306 (as recodified by this act).

10 **Sec. 330.** RCW 18.72.306 and 1991 c 3 s 169 are each amended to
11 read as follows:

12 (1) The ((~~board~~)) commission shall enter into a contract with the
13 committee to implement an impaired physician program. The impaired
14 physician program may include any or all of the following:

15 (a) Contracting with providers of treatment programs;

16 (b) Receiving and evaluating reports of suspected impairment from
17 any source;

18 (c) Intervening in cases of verified impairment;

19 (d) Referring impaired physicians to treatment programs;

20 (e) Monitoring the treatment and rehabilitation of impaired
21 physicians including those ordered by the ((~~board~~)) commission;

22 (f) Providing post-treatment monitoring and support of
23 rehabilitative impaired physicians;

24 (g) Performing such other activities as agreed upon by the
25 ((~~board~~)) commission and the committee; and

26 (h) Providing prevention and education services.

27 (2) A contract entered into under subsection (1) of this section
28 shall be financed by a surcharge of up to twenty-five dollars on each
29 license renewal or issuance of a new license to be collected by the
30 department of health from every physician and surgeon licensed under
31 this chapter ((~~18.71 RCW~~)) in addition to other license fees and the
32 medical discipline assessment fee established under RCW 18.72.380.
33 These moneys shall be placed in the health professions account to be
34 used solely for the implementation of the impaired physician program.

35 **Sec. 331.** RCW 18.72.311 and 1987 c 416 s 3 are each amended to
36 read as follows:

1 The committee shall develop procedures in consultation with the
2 ((board)) commission for:

3 (1) Periodic reporting of statistical information regarding
4 impaired physician activity;

5 (2) Periodic disclosure and joint review of such information as the
6 ((board)) commission may deem appropriate regarding reports received,
7 contacts or investigations made, and the disposition of each report:
8 PROVIDED, That the committee shall not disclose any personally
9 identifiable information except as provided in subsections (3) and (4)
10 of this section;

11 (3) Immediate reporting to the ((board)) commission of the name and
12 results of any contact or investigation regarding any impaired
13 physician who is believed to constitute an imminent danger to the
14 public;

15 (4) Reporting to the ((board)) commission, in a timely fashion, any
16 impaired physician who refuses to cooperate with the committee, refuses
17 to submit to treatment, or whose impairment is not substantially
18 alleviated through treatment, and who, in the opinion of the committee,
19 is unable to practice medicine with reasonable skill and safety.
20 However, impairment, in and of itself, shall not give rise to a
21 presumption of the inability to practice medicine with reasonable skill
22 and safety;

23 (5) Informing each participant of the impaired physician program of
24 the program procedures, the responsibilities of program participants,
25 and the possible consequences of noncompliance with the program.

26 **Sec. 332.** RCW 18.72.316 and 1987 c 416 s 4 are each amended to
27 read as follows:

28 If the ((board)) commission has reasonable cause to believe that a
29 physician is impaired, the ((board)) commission shall cause an
30 evaluation of such physician to be conducted by the committee or the
31 committee's designee or the ((board's)) commission's designee for the
32 purpose of determining if there is an impairment. The committee or
33 appropriate designee shall report the findings of its evaluation to the
34 ((board)) commission.

35 **Sec. 333.** RCW 18.72.340 and 1993 c 367 s 17 are each amended to
36 read as follows:

1 (1) Every institution or organization providing professional
2 liability insurance to physicians shall send a complete report to the
3 (~~medical disciplinary board~~) commission of all malpractice
4 settlements, awards, or payments in excess of twenty thousand dollars
5 as a result of a claim or action for damages alleged to have been
6 caused by an insured physician's incompetency or negligence in the
7 practice of medicine. Such institution or organization shall also
8 report the award, settlement, or payment of three or more claims during
9 a five-year time period as the result of the alleged physician's
10 incompetence or negligence in the practice of medicine regardless of
11 the dollar amount of the award or payment.

12 (2) Reports required by this section shall be made within sixty
13 days of the date of the settlement or verdict. Failure to comply with
14 this section is punishable by a civil penalty not to exceed two hundred
15 fifty dollars.

16 **Sec. 334.** RCW 18.72.345 and 1991 c 215 s 2 are each amended to
17 read as follows:

18 To assist in identifying impairment related to alcohol abuse, the
19 (~~board~~) commission may obtain a copy of the driving record of a
20 physician or a physician assistant maintained by the department of
21 licensing.

22 NEW SECTION. **Sec. 335.** (1) RCW 18.72.155, 18.72.165, 18.72.265,
23 18.72.301, 18.72.306, 18.72.311, 18.72.316, 18.72.340, and 18.72.345,
24 as amended by this act, are each recodified as sections in chapter
25 18.71 RCW.

26 (2) RCW 18.72.010, 18.72.321, 18.72.380, 18.72.390, and 18.72.400
27 are each recodified as sections in chapter 18.71 RCW.

28 NEW SECTION. **Sec. 336.** The following acts or parts of acts are
29 each repealed:

30 (1) RCW 18.72.020 and 1986 c 259 s 115 & 1955 c 202 s 2;

31 (2) RCW 18.72.045 and 1991 c 215 s 1;

32 (3) RCW 18.72.090 and 1955 c 202 s 9;

33 (4) RCW 18.72.100 and 1991 c 3 s 166, 1984 c 287 s 45, 1979 ex.s.
34 c 111 s 3, 1979 c 158 s 59, 1975-'76 2nd ex.s. c 34 s 42, & 1955 c 202
35 s 10;

36 (5) RCW 18.72.110 and 1955 c 202 s 11;

- 1 (6) RCW 18.72.120 and 1991 c 3 s 167 & 1955 c 202 s 12;
2 (7) RCW 18.72.130 and 1979 ex.s. c 111 s 4 & 1955 c 202 s 13;
3 (8) RCW 18.72.150 and 1986 c 259 s 116, 1979 ex.s. c 111 s 5, 1975
4 c 61 s 4, & 1955 c 202 s 15;
5 (9) RCW 18.72.154 and 1986 c 259 s 107;
6 (10) RCW 18.72.190 and 1989 c 373 s 18 & 1955 c 202 s 19;
7 (11) RCW 18.72.900 and 1955 c 202 s 46; and
8 (12) RCW 18.72.910 and 1955 c 202 s 48.

9

NURSING CARE

10 NEW SECTION. **Sec. 401.** It is the purpose of the nursing care
11 quality assurance commission to regulate the competency and quality of
12 professional health care providers under its jurisdiction by
13 establishing, monitoring, and enforcing qualifications for licensing,
14 consistent standards of practice, continuing competency mechanisms, and
15 discipline. Rules, policies, and procedures developed by the
16 commission must promote the delivery of quality health care to the
17 residents of the state of Washington.

18 NEW SECTION. **Sec. 402.** Unless a different meaning is plainly
19 required by the context, the definitions set forth in this section
20 apply throughout this chapter.

21 (1) "Commission" means the Washington state nursing care quality
22 assurance commission.

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

24 (3) "Secretary" means the secretary of health or the secretary's
25 designee.

26 (4) "Diagnosis," in the context of nursing practice, means the
27 identification of, and discrimination between, the person's physical
28 and psycho-social signs and symptoms that are essential to effective
29 execution and management of the nursing care regimen.

30 (5) "Diploma" means written official verification of completion of
31 an approved nursing education program.

32 (6) "Nurse" or "nursing," unless otherwise specified as a practical
33 nurse or practical nursing, means a registered nurse or registered
34 nursing.

1 NEW SECTION. **Sec. 403.** (1) It is unlawful for a person to
2 practice or to offer to practice as a registered nurse in this state
3 unless that person has been licensed under this chapter. A person who
4 holds a license to practice as a registered nurse in this state may use
5 the title "registered nurse" and the abbreviation "R.N." No other
6 person may assume that title or use the abbreviation or any other
7 words, letters, signs, or figures to indicate that the person using
8 them is a registered nurse.

9 (2) It is unlawful for a person to practice or to offer to practice
10 as an advanced registered nurse practitioner or as a nurse practitioner
11 in this state unless that person has been licensed under this chapter.
12 A person who holds a license to practice as an advanced registered
13 nurse practitioner in this state may use the titles "advanced
14 registered nurse practitioner" and "nurse practitioner" and the
15 abbreviations "A.R.N.P." and "N.P." No other person may assume those
16 titles or use those abbreviations or any other words, letters, signs,
17 or figures to indicate that the person using them is an advanced
18 registered nurse practitioner or nurse practitioner.

19 (3) It is unlawful for a person to practice or to offer to practice
20 as a licensed practical nurse in this state unless that person has been
21 licensed under this chapter. A person who holds a license to practice
22 as a licensed practical nurse in this state may use the title "licensed
23 practical nurse" and the abbreviation "L.P.N." No other person may
24 assume that title or use that abbreviation or any other words, letters,
25 signs, or figures to indicate that the person using them is a licensed
26 practical nurse.

27 NEW SECTION. **Sec. 404.** (1) "Registered nursing practice" means
28 the performance of acts requiring substantial specialized knowledge,
29 judgment, and skill based on the principles of the biological,
30 physiological, behavioral, and sociological sciences in either:

31 (a) The observation, assessment, diagnosis, care or counsel, and
32 health teaching of the ill, injured, or infirm, or in the maintenance
33 of health or prevention of illness of others;

34 (b) The performance of such additional acts requiring education and
35 training and that are recognized by the medical and nursing professions
36 as proper and recognized by the commission to be performed by
37 registered nurses licensed under this chapter and that are authorized
38 by the commission through its rules;

1 (c) The administration, supervision, delegation, and evaluation of
2 nursing practice. However, nothing in this subsection affects the
3 authority of a hospital, hospital district, medical clinic, or office,
4 concerning its administration and supervision;

5 (d) The teaching of nursing;

6 (e) The executing of medical regimen as prescribed by a licensed
7 physician and surgeon, dentist, osteopathic physician and surgeon,
8 podiatric physician and surgeon, physician assistant, osteopathic
9 physician assistant, or advanced registered nurse practitioner.

10 (2) Nothing in this section prohibits a person from practicing a
11 profession for which a license has been issued under the laws of this
12 state or specifically authorized by any other law of the state of
13 Washington.

14 (3) This section does not prohibit (a) the nursing care of the
15 sick, without compensation, by an unlicensed person who does not hold
16 himself or herself out to be a registered nurse, or (b) the practice of
17 licensed practical nursing by a licensed practical nurse.

18 NEW SECTION. **Sec. 405.** "Advanced registered nursing practice"
19 means the performance of the acts of a registered nurse and the
20 performance of an expanded role in providing health care services as
21 recognized by the medical and nursing professions, the scope of which
22 is defined by rule by the commission. Upon approval by the commission,
23 an advanced registered nurse practitioner may prescribe legend drugs
24 and controlled substances contained in Schedule V of the Uniform
25 Controlled Substances Act, chapter 69.50 RCW.

26 Nothing in this section prohibits a person from practicing a
27 profession for which a license has been issued under the laws of this
28 state or specifically authorized by any other law of the state of
29 Washington.

30 This section does not prohibit (1) the nursing care of the sick,
31 without compensation, by an unlicensed person who does not hold himself
32 or herself out to be an advanced registered nurse practitioner, or (2)
33 the practice of registered nursing by a licensed registered nurse or
34 the practice of licensed practical nursing by a licensed practical
35 nurse.

36 NEW SECTION. **Sec. 406.** "Licensed practical nursing practice"
37 means the performance of services requiring the knowledge, skill, and

1 judgment necessary for carrying out selected aspects of the designated
2 nursing regimen under the direction and supervision of a licensed
3 physician and surgeon, dentist, osteopathic physician and surgeon,
4 physician assistant, osteopathic physician assistant, podiatric
5 physician and surgeon, advanced registered nurse practitioner, or
6 registered nurse.

7 Nothing in this section prohibits a person from practicing a
8 profession for which a license has been issued under the laws of this
9 state or specifically authorized by any other law of the state of
10 Washington.

11 This section does not prohibit the nursing care of the sick,
12 without compensation, by an unlicensed person who does not hold himself
13 or herself out to be a licensed practical nurse.

14 NEW SECTION. **Sec. 407.** (1) The state nursing care quality
15 assurance commission is established, consisting of eleven members to be
16 appointed by the governor to four-year terms. No person may serve as
17 a member of the commission for more than two consecutive full terms.

18 (2) There must be three registered nurse members, two advanced
19 registered nurse practitioner members, three licensed practical nurse
20 members, two public members, and one nonvoting midwife member licensed
21 under chapter 18.50 RCW, on the commission. Each member of the
22 commission must be a citizen of the United States and a resident of
23 this state.

24 (3) Registered nurse members of the commission must:

25 (a) Be licensed as registered nurses under this chapter; and

26 (b) Have had at least five years' experience in the active practice
27 of nursing and have been engaged in that practice within two years of
28 appointment.

29 (4) Advanced registered nurse practitioner members of the
30 commission must:

31 (a) Be licensed as advanced registered nurse practitioners under
32 this chapter; and

33 (b) Have had at least five years' experience in the active practice
34 of advanced registered nursing and have been engaged in that practice
35 within two years of appointment.

36 (5) Licensed practical nurse members of the commission must:

37 (a) Be licensed as licensed practical nurses under this chapter;

38 and

1 (b) Have had at least five years' actual experience as a licensed
2 practical nurse and have been engaged in practice as a practical nurse
3 within two years of appointment.

4 (6) Public members of the commission may not be a member of any
5 other health care licensing board or commission, or have a fiduciary
6 obligation to a facility rendering health services regulated by the
7 commission, or have a material or financial interest in the rendering
8 of health services regulated by the commission.

9 (7) The nonvoting licensed midwife member of the commission must:

10 (a) Be licensed as a midwife under chapter 18.50 RCW; and

11 (b) Have had at least five years' actual experience as a licensed
12 midwife and have been engaged in practice as a midwife within two years
13 of appointment.

14 In appointing the initial members of the commission, it is the
15 intent of the legislature that, to the extent possible, the governor
16 appoint the existing members of the board of nursing and the board of
17 practical nursing repealed under chapter . . . , Laws of 1994 (this
18 act). The governor may appoint initial members of the commission to
19 staggered terms of from one to four years. Thereafter, all members
20 shall be appointed to full four-year terms. Members of the commission
21 hold office until their successors are appointed.

22 NEW SECTION. **Sec. 408.** The governor may remove a member of the
23 commission for neglect of duty, misconduct, malfeasance or misfeasance
24 in office, or for incompetency or unprofessional conduct as defined in
25 chapter 18.130 RCW. Whenever the governor is satisfied that a member
26 of the commission has been guilty of neglect of duty, misconduct,
27 malfeasance or misfeasance in office, or of incompetency or
28 unprofessional conduct, the governor shall file with the secretary of
29 state a statement of the causes for and the order of removal from
30 office, and the secretary shall forthwith send a certified copy of the
31 statement of causes and order of removal to the last known post office
32 address of the member. If a vacancy occurs on the commission, the
33 governor shall appoint a replacement member to fill the remainder of
34 the unexpired term.

35 NEW SECTION. **Sec. 409.** Each commission member shall be
36 compensated in accordance with RCW 43.03.240 and shall be paid travel

1 expenses when away from home in accordance with RCW 43.03.050 and
2 43.03.060.

3 NEW SECTION. **Sec. 410.** The commission shall annually elect
4 officers from among its members. The commission shall meet at least
5 quarterly at times and places it designates. It shall hold such other
6 meetings during the year as may be deemed necessary to transact its
7 business. A majority of the commission members appointed and serving
8 constitutes a quorum at a meeting. All meetings of the commission must
9 be open and public, except that the commission may hold executive
10 sessions to the extent permitted by chapter 42.30 RCW.

11 Carrying a motion or resolution, adopting a rule, or passing a
12 measure requires the affirmative vote of a majority of a quorum of the
13 commission. The commission may appoint panels consisting of at least
14 three members. A quorum for transaction of any business by a panel is
15 a minimum of three members. A majority vote of a quorum of the panel
16 is required to transact business delegated to it by the commission.

17 NEW SECTION. **Sec. 411.** The commission shall keep a record of all
18 of its proceedings and make such reports to the governor as may be
19 required. The commission shall define by rules what constitutes
20 specialized and advanced levels of nursing practice as recognized by
21 the medical and nursing profession. The commission may adopt rules or
22 issue advisory opinions in response to questions put to it by
23 professional health associations, nursing practitioners, and consumers
24 in this state concerning the authority of various categories of nursing
25 practitioners to perform particular acts.

26 The commission shall approve curricula and shall establish criteria
27 for minimum standards for schools preparing persons for licensing as
28 registered nurses, advanced registered nurse practitioners, and
29 licensed practical nurses under this chapter. The commission shall
30 approve such schools of nursing as meet the requirements of this
31 chapter and the commission, and the commission shall approve
32 establishment of basic nursing education programs and shall establish
33 criteria as to the need for and the size of a program and the type of
34 program and the geographical location. The commission shall establish
35 criteria for proof of reasonable currency of knowledge and skill as a
36 basis for safe practice after three years' inactive or lapsed status.
37 The commission shall establish criteria for licensing by endorsement.

1 The commission shall determine examination requirements for applicants
2 for licensing as registered nurses, advanced registered nurse
3 practitioners, and licensed practical nurses under this chapter, and
4 shall certify to the secretary for licensing duly qualified applicants.

5 The commission shall adopt such rules under chapter 34.05 RCW as
6 are necessary to fulfill the purposes of this chapter.

7 The commission is the successor in interest of the board of nursing
8 and the board of practical nursing. All contracts, undertakings,
9 agreements, rules, regulations, decisions, orders, and policies of the
10 former board of nursing or the board of practical nursing continue in
11 full force and effect under the commission until the commission amends
12 or rescinds those rules, regulations, decisions, orders, or policies.

13 The members of the commission are immune from suit in an action,
14 civil or criminal, based on its disciplinary proceedings or other
15 official acts performed in good faith as members of the commission.

16 Whenever the workload of the commission requires, the commission
17 may request that the secretary appoint pro tempore members of the
18 commission. When serving, pro tempore members of the commission have
19 all of the powers, duties, and immunities, and are entitled to all of
20 the emoluments, including travel expenses, of regularly appointed
21 members of the commission.

22 NEW SECTION. **Sec. 412.** The Uniform Disciplinary Act, chapter
23 18.130 RCW, governs unlicensed practice, the issuance and denial of
24 licenses, and the discipline of licensees under this chapter.

25 NEW SECTION. **Sec. 413.** The secretary shall appoint, after
26 consultation with the commission, an executive director who shall act
27 to carry out this chapter. The secretary shall also employ such
28 professional, secretarial, clerical, and other assistants as may be
29 necessary to effectively administer this chapter. The secretary shall
30 fix the compensation and provide for travel expenses for the executive
31 director and all such employees, in accordance with RCW 43.03.050 and
32 43.03.060.

33 NEW SECTION. **Sec. 414.** The executive director must be a graduate
34 of an approved nursing education program and of a college or
35 university, with a masters' degree, and currently licensed as a
36 registered nurse under this chapter; have a minimum of eight years'

1 experience in nursing in any combination of administration and nursing
2 education; and have been actively engaged in the practice of registered
3 nursing or nursing education within two years immediately before the
4 time of appointment.

5 NEW SECTION. **Sec. 415.** An institution desiring to conduct a
6 school of registered nursing or a school or program of practical
7 nursing, or both, shall apply to the commission and submit evidence
8 satisfactory to the commission that:

9 (1) It is prepared to carry out the curriculum approved by the
10 commission for basic registered nursing or practical nursing, or both;
11 and

12 (2) It is prepared to meet other standards established by law and
13 by the commission.

14 The commission shall make, or cause to be made, such surveys of the
15 schools and programs, and of institutions and agencies to be used by
16 the schools and programs, as it determines are necessary. If in the
17 opinion of the commission, the requirements for an approved school of
18 registered nursing or a school or program of practical nursing, or
19 both, are met, the commission shall approve the school or program.

20 NEW SECTION. **Sec. 416.** (1) An applicant for a license to practice
21 as a registered nurse shall submit to the commission:

22 (a) An attested written application on a department form;

23 (b) Written official evidence of a diploma from an approved school
24 of nursing; and

25 (c) Any other official records specified by the commission.

26 (2) An applicant for a license to practice as an advanced
27 registered nurse practitioner shall submit to the commission:

28 (a) An attested written application on a department form;

29 (b) Written official evidence of completion of an advanced
30 registered nurse practitioner training program meeting criteria
31 established by the commission; and

32 (c) Any other official records specified by the commission.

33 (3) An applicant for a license to practice as a licensed practical
34 nurse shall submit to the commission:

35 (a) An attested written application on a department form;

36 (b) Written official evidence that the applicant is over the age of
37 eighteen;

1 (c) Written official evidence of a high school diploma or general
2 education development certificate or diploma;

3 (d) Written official evidence of completion of an approved
4 practical nursing program, or its equivalent; and

5 (e) Any other official records specified by the commission.

6 (4) At the time of submission of the application, the applicant for
7 a license to practice as a registered nurse, advanced registered nurse
8 practitioner, or licensed practical nurse must not be in violation of
9 chapter 18.130 RCW or this chapter.

10 (5) The commission shall establish by rule the criteria for
11 evaluating the education of all applicants.

12 NEW SECTION. **Sec. 417.** An applicant for a license to practice as
13 a registered nurse, advanced registered nurse practitioner, or licensed
14 practical nurse must pass an examination in subjects determined by the
15 commission. The examination may be supplemented by an oral or
16 practical examination. The commission shall establish by rule the
17 requirements for applicants who have failed the examination to qualify
18 for reexamination.

19 NEW SECTION. **Sec. 418.** When authorized by the commission, the
20 department shall issue an interim permit authorizing the applicant to
21 practice registered nursing, advanced registered nursing, or licensed
22 practical nursing, as appropriate, from the time of verification of the
23 completion of the school or training program until notification of the
24 results of the examination. Upon the applicant passing the
25 examination, and if all other requirements established by the
26 commission for licensing are met, the department shall issue the
27 applicant a license to practice registered nursing, advanced registered
28 nursing, or licensed practical nursing, as appropriate. If the
29 applicant fails the examination, the interim permit expires upon
30 notification to the applicant, and is not renewable. The holder of an
31 interim permit is subject to chapter 18.130 RCW.

32 NEW SECTION. **Sec. 419.** Upon approval of the application by the
33 commission, the department shall issue a license by endorsement without
34 examination to practice as a registered nurse or as a licensed
35 practical nurse to a person who is licensed as a registered nurse or
36 licensed practical nurse under the laws of another state, territory, or

1 possession of the United States, and who meets all other qualifications
2 for licensing.

3 An applicant who has graduated from a school or program of nursing
4 outside the United States and is licensed as a registered nurse or
5 licensed practical nurse, or their equivalents, outside the United
6 States must meet all qualifications required by this chapter and pass
7 examinations as determined by the commission.

8 NEW SECTION. **Sec. 420.** An applicant for a license to practice as
9 a registered nurse, advanced registered nurse practitioner, or licensed
10 practical nurse shall pay a fee as determined by the secretary under
11 RCW 43.70.250 to the state treasurer.

12 NEW SECTION. **Sec. 421.** A license issued under this chapter,
13 whether in an active or inactive status, must be renewed, except as
14 provided in this chapter. The licensee shall send the renewal form to
15 the department with a renewal fee, as determined by the secretary under
16 RCW 43.70.250, before the expiration date. Upon receipt of the renewal
17 form and the appropriate fee, the department shall issue the licensee
18 a license, which declares the holder to be a legal practitioner of
19 registered nursing, advanced registered nursing practice, or licensed
20 practical nursing, as appropriate, in either active or inactive status,
21 for the period of time stated on the license.

22 NEW SECTION. **Sec. 422.** A person licensed under this chapter who
23 allows his or her license to lapse by failing to renew the license,
24 shall on application for renewal pay a penalty determined by the
25 secretary under RCW 43.70.250. If the licensee fails to renew the
26 license before the end of the current licensing period, the department
27 shall issue the license for the next licensing period upon receipt of
28 a written application and fee determined by the secretary under RCW
29 43.70.250. Persons on lapsed status for three or more years must
30 provide evidence of knowledge and skill of current practice as required
31 by the commission.

32 NEW SECTION. **Sec. 423.** A person licensed under this chapter who
33 desires to retire temporarily from registered nursing practice,
34 advanced registered nursing practice, or licensed practical nursing
35 practice in this state shall send a written notice to the secretary.

1 Upon receipt of the notice the department shall place the name of
2 the person on inactive status. While remaining on this status the
3 person shall not practice in this state any form of nursing provided
4 for in this chapter. When the person desires to resume practice, the
5 person shall apply to the commission for renewal of the license and pay
6 a renewal fee to the state treasurer. Persons on inactive status for
7 three years or more must provide evidence of knowledge and skill of
8 current practice as required by the commission or as provided in this
9 chapter.

10 NEW SECTION. **Sec. 424.** (1) In the context of the definition of
11 registered nursing practice and advanced registered nursing practice,
12 this chapter shall not be construed as:

13 (a) Prohibiting the incidental care of the sick by domestic
14 servants or persons primarily employed as housekeepers, so long as they
15 do not practice registered nursing within the meaning of this chapter;

16 (b) Preventing a person from the domestic administration of family
17 remedies or the furnishing of nursing assistance in case of emergency;

18 (c) Prohibiting the practice of nursing by students enrolled in
19 approved schools as may be incidental to their course of study or
20 prohibiting the students from working as nursing aides;

21 (d) Prohibiting auxiliary services provided by persons carrying out
22 duties necessary for the support of nursing services, including those
23 duties that involve minor nursing services for persons performed in
24 hospitals, nursing homes, or elsewhere under the direction of licensed
25 physicians or the supervision of licensed registered nurses;

26 (e) Prohibiting the practice of nursing in this state by a legally
27 qualified nurse of another state or territory whose engagement requires
28 him or her to accompany and care for a patient temporarily residing in
29 this state during the period of one such engagement, not to exceed six
30 months in length, if the person does not represent or hold himself or
31 herself out as a registered nurse licensed to practice in this state;

32 (f) Prohibiting nursing or care of the sick, with or without
33 compensation, when done in connection with the practice of the
34 religious tenets of a church by adherents of the church so long as they
35 do not engage in the practice of nursing as defined in this chapter;

36 (g) Prohibiting the practice of a legally qualified nurse of
37 another state who is employed by the United States government or a

1 bureau, division, or agency thereof, while in the discharge of his or
2 her official duties;

3 (h) Permitting the measurement of the powers or range of human
4 vision, or the determination of the accommodation and refractive state
5 of the human eye or the scope of its functions in general, or the
6 fitting or adaptation of lenses for the aid thereof;

7 (i) Permitting the prescribing or directing the use of, or using,
8 an optical device in connection with ocular exercises, visual training,
9 vision training, or orthoptics;

10 (j) Permitting the prescribing of contact lenses for, or the
11 fitting and adaptation of contact lenses to, the human eye;

12 (k) Prohibiting the performance of routine visual screening;

13 (l) Permitting the practice of dentistry or dental hygiene as
14 defined in chapters 18.32 and 18.29 RCW, respectively;

15 (m) Permitting the practice of chiropractic as defined in chapter
16 18.25 RCW including the adjustment or manipulation of the articulation
17 of the spine;

18 (n) Permitting the practice of podiatric medicine and surgery as
19 defined in chapter 18.22 RCW;

20 (o) Permitting the performance of major surgery, except such minor
21 surgery as the commission may have specifically authorized by rule
22 adopted in accordance with chapter 34.05 RCW;

23 (p) Permitting the prescribing of controlled substances as defined
24 in Schedules I through IV of the Uniform Controlled Substances Act,
25 chapter 69.50 RCW, except as provided in (r) of this subsection;

26 (q) Prohibiting the determination and pronouncement of death;

27 (r) Prohibiting advanced registered nurse practitioners, approved
28 by the commission as certified registered nurse anesthetists from
29 selecting, ordering, or administering controlled substances as defined
30 in Schedules II through IV of the Uniform Controlled Substances Act,
31 chapter 69.50 RCW, consistent with their commission-recognized scope of
32 practice; subject to facility-specific protocols, and subject to a
33 request for certified registered nurse anesthetist anesthesia services
34 issued by a physician licensed under chapter 18.71 RCW, an osteopathic
35 physician and surgeon licensed under chapter 18.57 RCW, a dentist
36 licensed under chapter 18.32 RCW, or a podiatric physician and surgeon
37 licensed under chapter 18.22 RCW; the authority to select, order, or
38 administer Schedule II through IV controlled substances being limited
39 to those drugs that are to be directly administered to patients who

1 require anesthesia for diagnostic, operative, obstetrical, or
2 therapeutic procedures in a hospital, clinic, ambulatory surgical
3 facility, or the office of a practitioner licensed under chapter 18.71,
4 18.22, 18.36, 18.36A, 18.57, 18.57A, or 18.32 RCW; "select" meaning the
5 decision-making process of choosing a drug, dosage, route, and time of
6 administration; and "order" meaning the process of directing licensed
7 individuals pursuant to their statutory authority to directly
8 administer a drug or to dispense, deliver, or distribute a drug for the
9 purpose of direct administration to a patient, under instructions of
10 the certified registered nurse anesthetist. "Protocol" means a
11 statement regarding practice and documentation concerning such items as
12 categories of patients, categories of medications, or categories of
13 procedures rather than detailed case-specific formulas for the practice
14 of nurse anesthesia.

15 (2) In the context of the definition of licensed practical nursing
16 practice, this chapter shall not be construed as:

17 (a) Prohibiting the incidental care of the sick by domestic
18 servants or persons primarily employed as housekeepers, so long as they
19 do not practice practical nursing within the meaning of this chapter;

20 (b) Preventing a person from the domestic administration of family
21 remedies or the furnishing of nursing assistance in case of emergency;

22 (c) Prohibiting the practice of practical nursing by students
23 enrolled in approved schools as may be incidental to their course of
24 study or prohibiting the students from working as nursing assistants;

25 (d) Prohibiting auxiliary services provided by persons carrying out
26 duties necessary for the support of nursing services, including those
27 duties that involve minor nursing services for persons performed in
28 hospitals, nursing homes, or elsewhere under the direction of licensed
29 physicians or the supervision of licensed registered nurses;

30 (e) Prohibiting or preventing the practice of nursing in this state
31 by a legally qualified nurse of another state or territory whose
32 engagement requires him or her to accompany and care for a patient
33 temporarily residing in this state during the period of one such
34 engagement, not to exceed six months in length, if the person does not
35 represent or hold himself or herself out as a licensed practical nurse
36 licensed to practice in this state;

37 (f) Prohibiting nursing or care of the sick, with or without
38 compensation, when done in connection with the practice of the
39 religious tenets of a church by adherents of the church so long as they

1 do not engage in licensed practical nurse practice as defined in this
2 chapter;

3 (g) Prohibiting the practice of a legally qualified nurse of
4 another state who is employed by the United States government or any
5 bureau, division, or agency thereof, while in the discharge of his or
6 her official duties.

7 NEW SECTION. **Sec. 425.** An advanced registered nurse practitioner
8 under his or her license may perform for compensation nursing care, as
9 that term is usually understood, of the ill, injured, or infirm, and in
10 the course thereof, she or he may do the following things that shall
11 not be done by a person not so licensed, except as provided in sections
12 426 and 427 of this act:

13 (1) Perform specialized and advanced levels of nursing as
14 recognized jointly by the medical and nursing professions, as defined
15 by the commission;

16 (2) Prescribe legend drugs and Schedule V controlled substances, as
17 defined in the Uniform Controlled Substances Act, chapter 69.50 RCW,
18 within the scope of practice defined by the commission;

19 (3) Perform all acts provided in section 426 of this act;

20 (4) Hold herself or himself out to the public or designate herself
21 or himself as an advanced registered nurse practitioner or as a nurse
22 practitioner.

23 NEW SECTION. **Sec. 426.** A registered nurse under his or her
24 license may perform for compensation nursing care, as that term is
25 usually understood, of the ill, injured, or infirm, and in the course
26 thereof, she or he may do the following things that shall not be done
27 by a person not so licensed, except as provided in section 427 of this
28 act:

29 (1) At or under the general direction of a licensed physician and
30 surgeon, dentist, osteopathic physician and surgeon, podiatric
31 physician and surgeon, physician assistant, osteopathic physician
32 assistant, or advanced registered nurse practitioner acting within the
33 scope of his or her license, administer medications, treatments, tests,
34 and inoculations, whether or not the severing or penetrating of tissues
35 is involved and whether or not a degree of independent judgment and
36 skill is required;

1 (2) Delegate to other persons engaged in nursing, the functions
2 outlined in subsection (1) of this section;

3 (3) Instruct nurses in technical subjects pertaining to nursing;

4 (4) Hold herself or himself out to the public or designate herself
5 or himself as a registered nurse.

6 NEW SECTION. **Sec. 427.** A licensed practical nurse under his or
7 her license may perform nursing care, as that term is usually
8 understood, of the ill, injured, or infirm, and in the course thereof
9 may, under the direction of a licensed physician and surgeon,
10 osteopathic physician and surgeon, dentist, podiatric physician and
11 surgeon, physician assistant, osteopathic physician assistant, advanced
12 registered nurse practitioner acting under the scope of his or her
13 license, or at the direction and under the supervision of a registered
14 nurse, administer drugs, medications, treatments, tests, injections,
15 and inoculations, whether or not the piercing of tissues is involved
16 and whether or not a degree of independent judgment and skill is
17 required, when selected to do so by one of the licensed practitioners
18 designated in this section, or by a registered nurse who need not be
19 physically present; if the order given is reduced to writing within a
20 reasonable time and made a part of the patient's record.

21 NEW SECTION. **Sec. 428.** It is not a violation of chapter 18.71 RCW
22 or of chapter 18.57 RCW for a registered nurse, at or under the general
23 direction of a licensed physician and surgeon, or osteopathic physician
24 and surgeon, to administer prescribed drugs, injections, inoculations,
25 tests, or treatment whether or not the piercing of tissues is involved.

26 NEW SECTION. **Sec. 429.** (1) In accordance with rules adopted by
27 the commission, public school districts and private schools that offer
28 classes for any of grades kindergarten through twelve may provide for
29 clean, intermittent bladder catheterization of students or assisted
30 self-catheterization of students who are in the custody of the school
31 district or private school at the time. After consultation with staff
32 of the superintendent of public instruction, the commission shall adopt
33 rules in accordance with chapter 34.05 RCW, that provide for the
34 following and such other matters as the commission deems necessary to
35 the proper implementation of this section:

1 (a) A requirement for a written, current, and unexpired request
2 from a parent, legal guardian, or other person having legal control
3 over the student that the school district or private school provide for
4 the catheterization of the student;

5 (b) A requirement for a written, current, and unexpired request
6 from a physician licensed under chapter 18.71 or 18.57 RCW, that
7 catheterization of the student be provided for during the hours when
8 school is in session or the hours when the student is under the
9 supervision of school officials;

10 (c) A requirement for written, current, and unexpired instructions
11 from an advanced registered nurse practitioner or a registered nurse
12 licensed under this chapter regarding catheterization that include (i)
13 a designation of the school district or private school employee or
14 employees who may provide for the catheterization, and (ii) a
15 description of the nature and extent of any required supervision; and

16 (d) The nature and extent of acceptable training that shall (i) be
17 provided by a physician, advanced registered nurse practitioner, or
18 registered nurse licensed under chapter 18.71 or 18.57 RCW, or this
19 chapter, and (ii) be required of school district or private school
20 employees who provide for the catheterization of a student under this
21 section, except that a licensed practical nurse licensed under this
22 chapter is exempt from training.

23 (2) This section does not require school districts to provide
24 intermittent bladder catheterization of students.

25 NEW SECTION. **Sec. 430.** The department, subject to chapter 34.05
26 RCW, the Washington Administrative Procedure Act, may adopt such
27 reasonable rules as may be necessary to carry out the duties imposed
28 upon it in the administration of this chapter.

29 NEW SECTION. **Sec. 431.** As of the effective date of this act, all
30 rules, regulations, decisions, and orders of the board of nursing under
31 chapter 18.88 RCW or the board of practical nursing under chapter 18.78
32 RCW continue to be in effect under the commission, until the commission
33 acts to modify the rules, regulations, decisions, or orders.

34 NEW SECTION. **Sec. 432.** Sections 401 through 431 of this act
35 constitute a new chapter in Title 18 RCW.

1 NEW SECTION. **Sec. 433.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 18.78.005 and 1991 c 84 s 1 & 1983 c 55 s 1;
4 (2) RCW 18.78.010 and 1991 c 84 s 13, 1991 c 3 s 185, 1983 c 55 s
5 2, 1967 c 79 s 1, 1963 c 15 s 1, & 1949 c 222 s 1;
6 (3) RCW 18.78.020 and 1991 c 84 s 2, 1983 c 55 s 3, 1967 c 79 s 2,
7 & 1949 c 222 s 2;
8 (4) RCW 18.78.030 and 1991 c 84 s 3, 1983 c 55 s 4, & 1949 c 222 s
9 3;
10 (5) RCW 18.78.040 and 1991 c 84 s 4, 1984 c 287 s 47, 1983 c 55 s
11 5, 1975-'76 2nd ex.s. c 34 s 45, 1967 c 188 s 4, & 1949 c 222 s 4;
12 (6) RCW 18.78.050 and 1991 c 84 s 5, 1988 c 211 s 4, 1986 c 259 s
13 129, 1983 c 55 s 6, 1979 c 158 s 64, 1967 c 79 s 3, & 1949 c 222 s 5;
14 (7) RCW 18.78.054 and 1987 c 150 s 49 & 1986 c 259 s 128;
15 (8) RCW 18.78.055 and 1991 c 84 s 6 & 1983 c 55 s 7;
16 (9) RCW 18.78.058 and 1987 c 150 s 50;
17 (10) RCW 18.78.060 and 1991 c 84 s 7, 1988 c 212 s 1, 1983 c 55 s
18 8, 1971 ex.s. c 292 s 26, 1963 c 15 s 2, & 1949 c 222 s 6;
19 (11) RCW 18.78.070 and 1986 c 259 s 130, 1983 c 55 s 9, & 1949 c
20 222 s 7;
21 (12) RCW 18.78.072 and 1988 c 211 s 3;
22 (13) RCW 18.78.080 and 1991 c 84 s 8, 1985 c 7 s 65, 1979 c 158 s
23 65, 1975 1st ex.s. c 30 s 68, 1963 c 15 s 3, & 1949 c 222 s 9;
24 (14) RCW 18.78.090 and 1991 c 84 s 9, 1986 c 259 s 131, 1985 c 7 s
25 66, 1983 c 55 s 10, 1979 c 158 s 66, 1975 1st ex.s. c 30 s 69, 1971
26 ex.s. c 266 s 14, 1967 c 79 s 4, 1963 c 15 s 4, & 1949 c 222 s 10;
27 (15) RCW 18.78.100 and 1991 c 84 s 10, 1991 c 3 s 190, 1983 c 55 s
28 11, 1971 c 68 s 1, & 1949 c 222 s 11;
29 (16) RCW 18.78.160 and 1991 c 84 s 12, 1983 c 55 s 15, & 1949 c 222
30 s 17;
31 (17) RCW 18.78.182 and 1991 c 84 s 11, 1983 c 55 s 19, 1971 c 68 s
32 2, & 1967 c 79 s 6;
33 (18) RCW 18.78.225 and 1991 c 3 s 192 & 1988 c 211 s 12;
34 (19) RCW 18.78.900 and 1949 c 222 s 19;
35 (20) RCW 18.78.901 and 1983 c 55 s 22;
36 (21) RCW 18.88.010 and 1973 c 133 s 1 & 1949 c 202 s 1;
37 (22) RCW 18.88.020 and 1973 c 133 s 2 & 1949 c 202 s 2;
38 (23) RCW 18.88.030 and 1991 c 3 s 213, 1989 c 114 s 1, 1979 c 158
39 s 69, 1973 c 133 s 3, 1961 c 288 s 1, & 1949 c 202 s 4;

1 (24) RCW 18.88.050 and 1989 c 114 s 2, 1973 c 133 s 4, & 1949 c 202
2 s 5;
3 (25) RCW 18.88.060 and 1973 c 133 s 5, 1961 c 288 s 3, & 1949 c 202
4 s 6;
5 (26) RCW 18.88.070 and 1989 c 114 s 3, 1973 c 133 s 6, & 1949 c 202
6 s 7;
7 (27) RCW 18.88.080 and 1991 c 3 s 214, 1988 c 211 s 8, 1984 c 287
8 s 50, 1977 c 75 s 12, 1975-'76 2nd ex.s. c 34 s 50, 1973 c 133 s 7,
9 1961 c 288 s 4, & 1949 c 202 s 8;
10 (28) RCW 18.88.086 and 1987 c 150 s 57 & 1986 c 259 s 135;
11 (29) RCW 18.88.090 and 1991 c 3 s 215, 1975-'76 2nd ex.s. c 34 s
12 51, 1973 c 133 s 8, 1961 c 288 s 5, & 1949 c 202 s 9;
13 (30) RCW 18.88.100 and 1973 c 133 s 9, 1961 c 288 s 6, & 1949 c 202
14 s 10;
15 (31) RCW 18.88.110 and 1973 c 133 s 10 & 1949 c 202 s 11;
16 (32) RCW 18.88.120 and 1973 c 133 s 11 & 1949 c 202 s 12;
17 (33) RCW 18.88.130 and 1989 c 114 s 4, 1973 c 133 s 12, 1961 s 288
18 s 7, & 1949 c 202 s 13;
19 (34) RCW 18.88.140 and 1989 c 114 s 5, 1973 c 133 s 13, 1961 c 288
20 s 8, & 1949 c 202 s 14;
21 (35) RCW 18.88.150 and 1989 c 114 s 6, 1988 c 211 s 5, 1973 c 133
22 s 14, 1961 c 288 s 9, & 1949 c 202 s 15;
23 (36) RCW 18.88.160 and 1991 c 3 s 216, 1985 c 7 s 68, 1975 1st
24 ex.s. c 30 s 77, 1973 c 133 s 15, 1961 c 288 s 10, & 1949 c 202 s 16;
25 (37) RCW 18.88.170 and 1973 c 133 s 16 & 1949 c 202 s 17;
26 (38) RCW 18.88.175 and 1991 c 3 s 217 & 1988 c 211 s 13;
27 (39) RCW 18.88.190 and 1991 c 3 s 218, 1988 c 211 s 9, 1985 c 7 s
28 69, 1979 ex.s. c 106 s 1, 1975 1st ex.s. c 30 s 78, 1973 c 133 s 18,
29 1971 ex.s. c 266 s 18, 1961 c 288 s 11, & 1949 c 202 s 19;
30 (40) RCW 18.88.200 and 1991 c 3 s 219, 1988 c 211 s 10, 1985 c 7 s
31 70, 1975 1st ex.s. c 30 s 79, 1973 c 133 s 19, 1961 c 288 s 12, & 1949
32 c 202 s 20;
33 (41) RCW 18.88.220 and 1991 c 3 s 220, 1988 c 211 s 11, 1973 c 133
34 s 20, & 1949 c 202 s 22;
35 (42) RCW 18.88.270 and 1986 c 259 s 136, 1973 c 133 s 26, & 1949 c
36 202 s 27;
37 (43) RCW 18.88.280 and 1993 c 225 s 1, 1989 c 114 s 7, 1988 c 37 s
38 1, 1973 c 133 s 27, 1961 c 288 s 13, & 1949 c 202 s 28;

1 (44) RCW 18.88.285 and 1989 c 114 s 8, 1973 c 133 s 28, 1967 c 79
2 s 9, & 1961 c 288 s 14;
3 (45) RCW 18.88.290 and 1955 c 62 s 1;
4 (46) RCW 18.88.295 and 1988 c 48 s 1;
5 (47) RCW 18.88.300 and 1973 c 133 s 29;
6 (48) RCW 18.88.900 and 1949 c 202 s 29; and
7 (49) RCW 18.88A.070 and 1991 c 16 s 9, 1991 c 3 s 223, 1989 c 300
8 s 9, & 1988 c 267 s 9.

9

MENTAL HEALTH CARE

10 **Sec. 501.** RCW 18.19.070 and 1991 c 3 s 22 are each amended to read
11 as follows:

12 (1) (~~Within sixty days of July 26, 1987, the secretary shall have~~
13 ~~authority to appoint advisory committees to further the purposes of~~
14 ~~this chapter. Each such committee shall be composed of five members,~~
15 ~~one member initially appointed for a term of one year, two for terms of~~
16 ~~two years, and two for terms of three years. No person may serve as a~~
17 ~~member of the committee for more than two consecutive terms.)) The
18 Washington state mental health quality assurance council is created,
19 consisting of nine members appointed by the secretary. All
20 appointments shall be for a term of four years. No person may serve as
21 a member of the council for more than two consecutive full terms.~~

22 Voting members of the council must include one social worker
23 certified under RCW 18.19.110, one mental health counselor certified
24 under RCW 18.19.120, one marriage and family therapist certified under
25 RCW 18.19.130, one counselor registered under RCW 18.19.090, one
26 hypnotherapist registered under RCW 18.19.090, and two public members.
27 Each member of the council must be a citizen of the United States and
28 a resident of this state. Public members of the council may not be a
29 member of any other health care licensing board or commission, or have
30 a fiduciary obligation to a facility rendering health services
31 regulated by the council, or have a material or financial interest in
32 the rendering of health services regulated by the council.

33 The secretary may appoint the initial members of the council to
34 staggered terms of from one to four years. Thereafter, all members
35 shall be appointed to full four-year terms. Members of the council
36 hold office until their successors are appointed.

1 The secretary may remove any member of the ((~~advisory committees~~))
2 council for cause as specified by rule. In the case of a vacancy, the
3 secretary shall appoint a person to serve for the remainder of the
4 unexpired term.

5 (2) The ((~~advisory committees~~)) council shall ((~~each~~)) meet at the
6 times and places designated by the secretary and shall hold meetings
7 during the year as necessary to provide advice to the secretary.

8 Each member of ((~~an advisory committee~~)) the council shall be
9 reimbursed for travel expenses as authorized in RCW 43.03.050 and
10 43.03.060. In addition, members of the ((~~committees~~)) council shall be
11 compensated in accordance with RCW 43.03.240 when engaged in the
12 authorized business of ((~~their committee~~).

13 ~~(3) Members of an advisory committee shall be residents of this~~
14 ~~state. Each committee shall be composed of four individuals registered~~
15 ~~or certified in the category designated by the committee title, and one~~
16 ~~member who is a member of the public)) the council. The members of the
17 council are immune from suit in an action, civil or criminal, based on
18 their official acts performed in good faith as members of the council.~~

19

ACUPUNCTURE

20 **Sec. 502.** RCW 18.06.080 and 1992 c 110 s 3 are each amended to
21 read as follows:

22 (1) The secretary is hereby authorized and empowered to execute the
23 provisions of this chapter and shall offer examinations in acupuncture
24 at least twice a year at such times and places as the secretary may
25 select. The examination shall be a written examination and may include
26 a practical examination.

27 (2) The secretary shall develop or approve a certification
28 examination in the subjects that the secretary determines are within
29 the scope of and commensurate with the work performed by certified
30 acupuncturists and shall include but not necessarily be limited to
31 anatomy, physiology, microbiology, biochemistry, pathology, hygiene,
32 and acupuncture. All application papers shall be deposited with the
33 secretary and there retained for at least one year, when they may be
34 destroyed.

35 (3) If the examination is successfully passed, the secretary shall
36 confer on such candidate the title of Certified Acupuncturist.

1 (4) The secretary may appoint members of the profession to serve in
2 an ad hoc advisory capacity to the secretary in carrying out this
3 chapter. The members will serve for designated times and provide
4 advice on matters specifically identified and requested by the
5 secretary. The members shall be compensated in accordance with RCW
6 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and
7 43.03.060.

8 (5) The secretary, ad hoc committee members, or individuals acting
9 in their behalf are immune from suit in a civil action based on any
10 certification or disciplinary proceedings or other official acts
11 performed in the course of their duties.

12 NEW SECTION. Sec. 503. RCW 18.06.170 and 1991 c 3 s 16 & 1985 c
13 326 s 17 are each repealed.

14 **OCULARISTS**

15 **Sec. 504.** RCW 18.55.020 and 1991 c 180 s 2 are each amended to
16 read as follows:

17 The terms defined in this section shall have the meaning ascribed
18 to them wherever appearing in this chapter, unless a different meaning
19 is specifically used to such term in such statute.

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

21 (2) "Secretary" means the secretary of health.

22 (3) "Ocularist" means a person licensed under this chapter.

23 (4) (~~"Advisory committee" means the state ocularist advisory~~
24 ~~committee.~~

25 ~~(5))~~ "Apprentice" means a person designated an apprentice in the
26 records of the secretary to receive from a licensed ocularist training
27 and direct supervision in the work of an ocularist.

28 ~~((6))~~ (5) "Stock-eye" means an ocular stock prosthesis that has
29 not been originally manufactured or altered by the ocularist or service
30 provider selling or fitting, or both, said prosthesis to a patient or
31 customer. "Altered" means either taking away or adding materials, or
32 colorization, or otherwise changing the prosthesis' appearance,
33 function, or fit in the socket or on the implant of the patient or
34 customer.

35 ~~((7))~~ (6) "Modified stock-eye" means a stock-eye (~~as defined in~~
36 ~~subsection (6) of this section,~~) that has been altered in some manner

1 by the ocularist or service provider selling or fitting, or both, said
2 prosthesis to a patient or customer. "Altered" is as defined in
3 subsection ~~((+6+))~~ (5) of this section. A modified stock-eye cannot be
4 defined as either a "custom" or "impression-fitted" eye or prosthesis
5 by adding material that incorporates an impression-surface of the
6 patient or customer socket or implant surfaces.

7 ~~((+8+))~~ (7) "Custom-eye" means an original, newly manufactured eye
8 or prosthesis that has been specifically crafted by an ocularist or
9 authorized service provider for the patient or customer to whom it is
10 sold or provided. The "custom-eye" may be either an impression-fitted
11 eye (an impression of the socket or implant surfaces) or an
12 empirical/wax pattern-fitted method eye, or a combination of either, as
13 delineated in the ocularist examination.

14 **RADIOLOGIC TECHNOLOGISTS**

15 **Sec. 505.** RCW 18.84.020 and 1991 c 222 s 2 are each amended to
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Department" means the department of health.

20 (2) "Secretary" means the secretary of health.

21 (3) "Licensed practitioner" means any licensed health care
22 practitioner performing services within the person's authorized scope
23 of practice.

24 (4) "Radiologic technologist" means an individual certified under
25 this chapter, other than a licensed practitioner, who practices
26 radiologic technology as a:

27 (a) Diagnostic radiologic technologist, who is a person who
28 actually handles x-ray equipment in the process of applying radiation
29 on a human being for diagnostic purposes at the direction of a licensed
30 practitioner; or

31 (b) Therapeutic radiologic technologist, who is a person who uses
32 radiation-generating equipment for therapeutic purposes on human
33 subjects at the direction of a licensed practitioner; or

34 (c) Nuclear medicine technologist, who is a person who prepares
35 radiopharmaceuticals and administers them to human beings for
36 diagnostic and therapeutic purposes and who performs in vivo and in

1 vitro detection and measurement of radioactivity for medical purposes
2 at the direction of a licensed practitioner.

3 (5) (~~"Advisory committee" means the Washington state radiologic~~
4 ~~technology advisory committee.~~

5 ~~(6))~~ "Approved school of radiologic technology" means a school of
6 radiologic technology approved by the council on medical education of
7 the American medical association or a school found to maintain the
8 equivalent of such a course of study as determined by the department.
9 Such school may be operated by a medical or educational institution,
10 and for the purpose of providing the requisite clinical experience,
11 shall be affiliated with one or more general hospitals.

12 ~~((7))~~ (6) "Radiologic technology" means the use of ionizing
13 radiation upon a human being for diagnostic or therapeutic purposes.

14 ~~((8))~~ (7) "Radiologist" means a physician certified by the
15 American board of radiology or the American osteopathic board of
16 radiology.

17 ~~((9))~~ (8) "Registered x-ray technician" means a person who is
18 registered with the department, and who applies ionizing radiation at
19 the direction of a licensed practitioner.

20 **Sec. 506.** RCW 18.84.040 and 1991 c 222 s 11 are each amended to
21 read as follows:

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

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

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

28 (c) Establish forms and procedures necessary to administer this
29 chapter;

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

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

37 (f) Issue a certificate to any applicant who has met the education,
38 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 (4) The secretary may appoint ad hoc members of the profession to
11 serve in an ad hoc advisory capacity to the secretary in carrying out
12 this chapter. The members will serve for designated times and provide
13 advice on matters specifically identified and requested by the
14 secretary. The members shall be compensated in accordance with RCW
15 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and
16 43.03.060.

17 **Sec. 507.** RCW 18.84.070 and 1991 c 3 s 208 are each amended to
18 read as follows:

19 The secretary, ad hoc committee members (~~(of the committee)~~), or
20 individuals acting on their behalf are immune from suit in any civil
21 action based on any certification or disciplinary proceedings or other
22 official acts performed in the course of their duties.

23 **Sec. 508.** RCW 18.84.090 and 1991 c 3 s 210 are each amended to
24 read as follows:

25 The secretary(~~(, in consultation with the advisory committee,)~~)
26 shall establish by rule the standards and procedures for approval of
27 schools and alternate training, and may contract with individuals or
28 organizations having expertise in the profession or in education to
29 assist in evaluating those applying for approval. The standards and
30 procedures set shall apply equally to schools and training within the
31 United States and those in foreign jurisdictions.

32 **Sec. 509.** RCW 18.84.110 and 1991 c 3 s 212 are each amended to
33 read as follows:

34 The secretary(~~(, in consultation with the advisory committee,)~~)
35 shall establish by rule the requirements and fees for renewal of
36 certificates. Failure to renew invalidates the certificate and all

1 privileges granted by the certificate. In the event a certificate has
2 lapsed for a period longer than three years, the certificant shall
3 demonstrate competence to the satisfaction of the secretary by
4 continuing education or under the other standards determined by the
5 secretary.

6 NEW SECTION. **Sec. 510.** RCW 18.84.060 and 1991 c 3 s 207 & 1987 c
7 412 s 7 are each repealed.

8 **RESPIRATORY CARE PRACTITIONERS**

9 **Sec. 511.** RCW 18.89.020 and 1991 c 3 s 227 are each amended to
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) (~~("Advisory committee" means the Washington state advisory~~
14 ~~respiratory care committee.~~

15 ~~(2))~~ "Department" means the department of health.

16 ~~((3))~~ (2) "Secretary" means the secretary of health or the
17 secretary's designee.

18 ~~((4))~~ (3) "Respiratory care practitioner" means an individual
19 certified under this chapter.

20 ~~((5))~~ (4) "Physician" means an individual licensed under chapter
21 18.57 or 18.71 RCW.

22 ~~((6))~~ (5) "Rural hospital" means a hospital located anywhere in
23 the state except the following areas:

24 (a) The entire counties of Snohomish (including Camano Island),
25 King, Kitsap, Pierce, Thurston, Clark, and Spokane;

26 (b) Areas within a twenty-mile radius of an urban area with a
27 population exceeding thirty thousand persons; and

28 (c) Those cities or city-clusters located in rural counties but
29 which for all practical purposes are urban. These areas are
30 Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima,
31 Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

32 **Sec. 512.** RCW 18.89.050 and 1991 c 3 s 228 are each amended to
33 read as follows:

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

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

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

5 (c) Establish forms and procedures necessary to administer this
6 chapter;

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

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

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

15 (g) Prepare, grade, and administer, or determine the nature of, and
16 supervise the grading and administration of, examinations for
17 applicants for certification;

18 (h) Determine whether alternative methods of training are
19 equivalent to formal education and establish forms, procedures, and
20 criteria for evaluation of an applicant's alternative training to
21 determine the applicant's eligibility to take the examination;

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

25 (j) Define and approve any experience requirement for
26 certification; and

27 (k) Appoint members of the profession to serve in an ad hoc
28 advisory capacity to the secretary in carrying out this chapter. The
29 members will serve for designated times and provide advice on matters
30 specifically identified and requested by the secretary. The members
31 shall be compensated in accordance with RCW 43.03.220 and reimbursed
32 for travel expenses under RCW 43.03.040 and 43.03.060.

33 (2) The provisions of chapter 18.130 RCW shall govern the issuance
34 and denial of certificates, uncertified practice, and the disciplining
35 of persons certified under this chapter. The secretary shall be the
36 disciplining authority under this chapter.

37 **Sec. 513.** RCW 18.89.080 and 1991 c 3 s 231 are each amended to
38 read as follows:

1 The secretary, ad hoc committee members (~~(of the advisory~~
2 ~~committee)~~), or individuals acting on their behalf are immune from suit
3 in any civil action based on any certification or disciplinary
4 proceedings, or other official acts performed in the course of their
5 duties.

6 NEW SECTION. Sec. 514. RCW 18.89.070 and 1991 c 3 s 230 & 1987 c
7 415 s 8 are each repealed.

8 **HEALTH CARE ASSISTANTS**

9 **Sec. 515.** RCW 18.135.030 and 1991 c 3 s 273 are each amended to
10 read as follows:

11 The secretary(~~(7)~~) or the secretary's designee, with the advice of
12 designees of the (~~(board of)~~) medical (~~(examiners)~~) care quality
13 assurance commission, the board of osteopathic medicine and surgery,
14 the (~~(podiatry)~~) podiatric medical board, and the (~~(board of)~~) nursing
15 care quality assurance commission, shall adopt rules necessary to
16 administer, implement, and enforce this chapter and establish the
17 minimum requirements necessary for a health care facility or health
18 care practitioner to certify a health care assistant capable of
19 performing the functions authorized in this chapter. The rules shall
20 establish minimum requirements for each and every category of health
21 care assistant. Said rules shall be adopted after fair consideration
22 of input from representatives of each category. These requirements
23 shall ensure that the public health and welfare are protected and shall
24 include, but not be limited to, the following factors:

25 (1) The education and occupational qualifications for the health
26 care assistant category;

27 (2) The work experience for the health care assistant category;

28 (3) The instruction and training provided for the health care
29 assistant category; and

30 (4) The types of drugs or diagnostic agents which may be
31 administered by injection by health care assistants working in a
32 hospital or nursing home. The rules established pursuant to this
33 subsection shall not prohibit health care assistants working in a
34 health care facility other than a nursing home or hospital from
35 performing the functions authorized under this chapter.

DIETITIANS AND NUTRITIONISTS

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Sec. 516. RCW 18.138.070 and 1991 c 3 s 284 are each amended to read as follows:

In addition to any other authority provided by law, the secretary may:

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

(2) Establish forms necessary to administer this chapter;

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

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

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

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

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

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

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

(10) Set all certification, renewal, and late renewal fees in accordance with RCW 43.70.250; ((and))

(11) Set certification expiration dates and renewal periods for all certifications under this chapter; and

(12) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated time and provide advice on matters specifically identified and requested by the secretary. The members

1 shall be compensated in accordance with RCW 43.03.220 and reimbursed
2 for travel expenses under RCW 43.03.040 and 43.03.060. The secretary,
3 ad hoc committee members, or individuals acting in their behalf are
4 immune from suit in a civil action based on any certification or
5 disciplinary proceedings or other official acts performed in the course
6 of their duties.

7 NEW SECTION. **Sec. 517.** The secretary shall appoint a health
8 professions advisory committee consisting of one member from each
9 profession represented by an ad hoc advisory committee established
10 under RCW 18.06.080, 18.84.040, 18.89.050, and 18.138.070, and one
11 member of the health assistants profession as regulated under chapter
12 18.135 RCW, one member of the ocularists profession as regulated under
13 chapter 18.55 RCW, and one member of the nursing assistants profession
14 as regulated under chapter 18.88A RCW. The members shall serve three-
15 year terms. Of the initial members, two shall be appointed for a one-
16 year term, two shall be appointed for a two-year term, and the
17 remainder shall be appointed for three-year terms. Thereafter, members
18 shall be appointed for three-year terms. The committee shall advise
19 the secretary in matters concerning changes in the professions, health
20 care technologies, and health policies as requested by the secretary or
21 initiated by the committee. The committee members shall be eligible to
22 receive travel expenses under RCW 43.03.050 and 43.03.060.

23 NEW SECTION. **Sec. 518.** RCW 18.138.080 and 1991 c 3 s 285 & 1988
24 c 277 s 8 are each repealed.

25 **UNIFORM DISCIPLINARY ACT**

26 **Sec. 601.** RCW 18.130.010 and 1991 c 332 s 1 are each amended to
27 read as follows:

28 It is the intent of the legislature to strengthen and consolidate
29 disciplinary and licensure procedures for the licensed health and
30 health-related professions and businesses by providing a uniform
31 disciplinary act with standardized procedures for the licensure of
32 health care professionals and the enforcement of laws the purpose of
33 which is to assure the public of the adequacy of professional
34 competence and conduct in the healing arts.

1 It is also the intent of the legislature that all health and
2 health-related professions newly credentialed by the state come under
3 the Uniform Disciplinary Act.

4 Further, the legislature declares that the addition of public
5 members on all health care commissions and boards can give both the
6 state and the public, which it has a statutory responsibility to
7 protect, assurances of accountability and confidence in the various
8 practices of health care.

9 **Sec. 602.** RCW 18.130.020 and 1989 1st ex.s. c 9 s 312 are each
10 amended to read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Disciplining authority" means (~~((a) the board of medical~~
14 ~~examiners, the board of dental examiners, and the board of chiropractic~~
15 ~~examiners with respect to applicants for a license for the respective~~
16 ~~professions, (b) the medical disciplinary board, the dental~~
17 ~~disciplinary board, and the chiropractic disciplinary board with~~
18 ~~respect to holders of licenses for the respective professions, or (c))~~
19 the agency (~~(or)~~), board, or commission having the authority to take
20 disciplinary action against a holder of, or applicant for, a
21 professional or business license upon a finding of a violation of this
22 chapter or a chapter specified under RCW 18.130.040.

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

24 (3) "Secretary" means the secretary of health or the secretary's
25 designee.

26 (4) "Board" means any of those boards specified in RCW 18.130.040.

27 (5) "Commission" means any of the commissions specified in RCW
28 18.130.040.

29 (6) "Unlicensed practice" means:

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

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

1 (~~(6)~~) (7) "Disciplinary action" means sanctions identified in RCW
2 18.130.160.

3 (~~(7)~~) (8) "Practice review" means an investigative audit of
4 records related to the complaint, without prior identification of
5 specific patient or consumer names, to determine whether unprofessional
6 conduct may have been committed.

7 (~~(8)~~) (9) "Health agency" means city and county health
8 departments and the department of health.

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

13 **Sec. 603.** RCW 18.130.040 and 1993 c 367 s 4 are each amended to
14 read as follows:

15 (1) This chapter applies only to the secretary and the boards and
16 commissions having jurisdiction in relation to the professions licensed
17 under the chapters specified in this section. This chapter does not
18 apply to any business or profession not licensed under the chapters
19 specified in this section.

20 (2)(a) The secretary has authority under this chapter in relation
21 to the following professions:

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

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

24 (iii) Midwives licensed under chapter 18.50 RCW;

25 (iv) Ocularists licensed under chapter 18.55 RCW;

26 (v) Massage operators and businesses licensed under chapter 18.108
27 RCW;

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

29 (vii) Acupuncturists certified under chapter 18.06 RCW;

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

32 (ix) Respiratory care practitioners certified under chapter 18.89
33 RCW;

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

35 (xi) Persons registered as nursing pool operators under chapter
36 18.52C RCW;

37 (xii) Nursing assistants registered or certified under chapter
38 (~~18.88A~~) 18.-- (sections 401 through 431 of this act) RCW;

1 (xiii) Health care assistants certified under chapter 18.135 RCW;
2 (xiv) Dietitians and nutritionists certified under chapter 18.138
3 RCW;
4 (xv) Sex offender treatment providers certified under chapter
5 18.155 RCW; and
6 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
7 18.71.205.
8 (b) The boards and commissions having authority under this chapter
9 are as follows:
10 (i) The podiatric medical board as established in chapter 18.22
11 RCW;
12 (ii) The chiropractic (~~((disciplinary board))~~) quality assurance
13 commission as established in chapter (~~((18.26 RCW governing licenses~~
14 ~~issued under chapter))~~) 18.25 RCW;
15 (iii) The dental (~~((disciplinary board))~~) quality assurance
16 commission as established in chapter 18.32 RCW;
17 (iv) The (~~((council))~~) board on fitting and dispensing of hearing
18 aids as established in chapter 18.35 RCW;
19 (v) The board of funeral directors and embalmers as established in
20 chapter 18.39 RCW;
21 (vi) The board of examiners for nursing home administrators as
22 established in chapter 18.52 RCW;
23 (vii) The optometry board as established in chapter 18.54 RCW
24 governing licenses issued under chapter 18.53 RCW;
25 (viii) The board of osteopathic medicine and surgery as established
26 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
27 18.57A RCW;
28 (ix) The board of pharmacy as established in chapter 18.64 RCW
29 governing licenses issued under chapters 18.64 and 18.64A RCW;
30 (x) The medical (~~((disciplinary board))~~) quality assurance commission
31 as established in chapter ((18.72)) 18.71 RCW governing licenses and
32 registrations issued under chapters 18.71 and 18.71A RCW;
33 (xi) The board of physical therapy as established in chapter 18.74
34 RCW;
35 (xii) The board of occupational therapy practice as established in
36 chapter 18.59 RCW;
37 (xiii) The (~~((board of practical))~~) nursing care quality assurance
38 commission as established in chapter (~~((18.78))~~) 18.-- RCW (sections 401
39 through 431 of this act) governing licenses issued under that chapter;

1 (xiv) The examining board of psychology and its disciplinary
2 committee as established in chapter 18.83 RCW;

3 (xv) (~~The board of nursing as established in chapter 18.88 RCW;~~
4 ~~and~~

5 ~~(xvi))~~) The veterinary board of governors as established in chapter
6 18.92 RCW.

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

21 NEW SECTION. **Sec. 604.** A new section is added to chapter 18.130
22 RCW to read as follows:

23 (1) The settlement process must be substantially uniform for
24 licensees governed by regulatory entities having authority under this
25 chapter.

26 (2) Disclosure of the identity of reviewing disciplining authority
27 members who participate in the settlement process is available to the
28 respondents or their legal representative upon request.

29 (3) The settlement conference will occur only if a settlement is
30 not achieved through written documents. Respondents will have the
31 opportunity to conference either by phone or in person with the
32 reviewing disciplining authority member if the respondent chooses.
33 Respondents may also have their attorney conference either by phone or
34 in person with the reviewing disciplining authority member without the
35 respondent being present personally.

36 (4) If the respondent wants to meet in person with the reviewing
37 disciplining authority member, he or she will travel to the reviewing

1 disciplinary authority member and have such a conference with the
2 attorney general in attendance either by phone or in person.

3 **Sec. 605.** RCW 18.130.300 and 1993 c 367 s 10 are each amended to
4 read as follows:

5 The secretary, members of the boards or commissions, or individuals
6 acting on their behalf are immune from suit in any action, civil or
7 criminal, based on any disciplinary proceedings or other official acts
8 performed in the course of their duties.

9 **CONFORMING AMENDMENTS**

10 **Sec. 701.** RCW 4.24.260 and 1975 1st ex.s. c 114 s 3 are each
11 amended to read as follows:

12 Physicians licensed under chapter 18.71 RCW(~~{,}~~), dentists
13 licensed under chapter 18.32 RCW, and pharmacists licensed under
14 chapter 18.64 RCW who, in good faith, file charges or present evidence
15 against another member of their profession based on the claimed
16 incompetency or gross misconduct of such person before the medical
17 (~~(disciplinary board)~~) quality assurance commission established under
18 chapter (~~(18.72)~~) 18.71 RCW, in a proceeding under chapter 18.32 RCW,
19 or to the board of pharmacy under RCW 18.64.160 shall be immune from
20 civil action for damages arising out of such activities.

21 **Sec. 702.** RCW 4.24.290 and 1985 c 326 s 26 are each amended to
22 read as follows:

23 In any civil action for damages based on professional negligence
24 against a hospital which is licensed by the state of Washington or
25 against the personnel of any such hospital, or against a member of the
26 healing arts including, but not limited to, an acupuncturist certified
27 under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW,
28 an osteopathic physician licensed under chapter 18.57 RCW, a
29 chiropractor licensed under chapter 18.25 RCW, a dentist licensed under
30 chapter 18.32 RCW, a (~~(podiatrist)~~) podiatric physician and surgeon
31 licensed under chapter 18.22 RCW, or a nurse licensed under (~~(chapters~~
32 ~~18.78 or 18.88)~~) chapter 18.-- RCW (sections 401 through 431 of this
33 act), the plaintiff in order to prevail shall be required to prove by
34 a preponderance of the evidence that the defendant or defendants failed
35 to exercise that degree of skill, care, and learning possessed at that

1 time by other persons in the same profession, and that as a proximate
2 result of such failure the plaintiff suffered damages, but in no event
3 shall the provisions of this section apply to an action based on the
4 failure to obtain the informed consent of a patient.

5 **Sec. 703.** RCW 5.62.010 and 1987 c 198 s 1 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Registered nurse" means a registered nurse or advanced nurse
10 practitioner licensed under chapter ((18.88)) 18.-- RCW (sections 401
11 through 431 of this act).

12 (2) "Protocol" means a regimen to be carried out by a registered
13 nurse and prescribed by a licensed physician under chapter 18.71 RCW,
14 or a licensed osteopathic physician under chapter 18.57 RCW, which is
15 consistent with chapter ((18.88)) 18.-- RCW (sections 401 through 431
16 of this act) and the rules adopted under that chapter ((18.88 RCW)).

17 (3) "Primary care" means screening, assessment, diagnosis, and
18 treatment for the purpose of promotion of health and detection of
19 disease or injury, as authorized by chapter ((18.88)) 18.-- RCW
20 (sections 401 through 431 of this act) and the rules adopted under that
21 chapter ((18.88 RCW)).

22 **Sec. 704.** RCW 18.50.032 and 1981 c 53 s 10 are each amended to
23 read as follows:

24 Registered nurses and nurse midwives certified by the ((board of))
25 nursing care quality assurance commission under chapter ((18.88)) 18.--
26 RCW (sections 401 through 431 of this act) shall be exempt from the
27 requirements and provisions of this chapter.

28 **Sec. 705.** RCW 18.50.040 and 1991 c 3 s 106 are each amended to
29 read as follows:

30 (1) Any person seeking to be examined shall present to the
31 secretary, at least forty-five days before the commencement of the
32 examination, a written application on a form or forms provided by the
33 secretary setting forth under affidavit such information as the
34 secretary may require and proof the candidate has received a high
35 school degree or its equivalent; that the candidate is twenty-one years
36 of age or older; that the candidate has received a certificate or

1 diploma from a midwifery program accredited by the secretary and
2 licensed under chapter 28C.10 RCW, when applicable, or a certificate or
3 diploma in a foreign institution on midwifery of equal requirements
4 conferring the full right to practice midwifery in the country in which
5 it was issued. The diploma must bear the seal of the institution from
6 which the applicant was graduated. Foreign candidates must present
7 with the application a translation of the foreign certificate or
8 diploma made by and under the seal of the consulate of the country in
9 which the certificate or diploma was issued.

10 (2) The candidate shall meet the following conditions:

11 (a) Obtaining a minimum period of midwifery training for at least
12 three years including the study of the basic nursing skills that the
13 department shall prescribe by rule. However, if the applicant is a
14 registered nurse or licensed practical nurse under chapter (~~18.88 RCW,~~
15 ~~a licensed practical nurse under chapter 18.78 RCW~~) 18.-- RCW
16 (sections 401 through 431 of this act), or has had previous nursing
17 education or practical midwifery experience, the required period of
18 training may be reduced depending upon the extent of the candidate's
19 qualifications as determined under rules adopted by the department. In
20 no case shall the training be reduced to a period of less than two
21 years.

22 (b) Meeting minimum educational requirements which shall include
23 studying obstetrics; neonatal pediatrics; basic sciences; female
24 reproductive anatomy and physiology; behavioral sciences; childbirth
25 education; community care; obstetrical pharmacology; epidemiology;
26 gynecology; family planning; genetics; embryology; neonatology; the
27 medical and legal aspects of midwifery; nutrition during pregnancy and
28 lactation; breast feeding; nursing skills, including but not limited to
29 injections, administering intravenous fluids, catheterization, and
30 aseptic technique; and such other requirements prescribed by rule.

31 (c) For a student midwife during training, undertaking the care of
32 not less than fifty women in each of the prenatal, intrapartum, and
33 early postpartum periods, but the same women need not be seen through
34 all three periods. A student midwife may be issued a permit upon the
35 satisfactory completion of the requirements in (a), (b), and (c) of
36 this subsection and the satisfactory completion of the licensure
37 examination required by RCW 18.50.060. The permit permits the student
38 midwife to practice under the supervision of a midwife licensed under
39 this chapter, a physician or a certified nurse-midwife licensed under

1 the authority of chapter ~~((18.88))~~ 18.-- RCW (sections 401 through 431
2 of this act). The permit shall expire within one year of issuance and
3 may be extended as provided by rule.

4 (d) Observing an additional fifty women in the intrapartum period
5 before the candidate qualifies for a license.

6 (3) Notwithstanding subsections (1) and (2) of this section, the
7 department shall adopt rules to provide credit toward the educational
8 requirements for licensure before July 1, 1988, of nonlicensed
9 midwives, including rules to provide:

10 (a) Credit toward licensure for documented deliveries;

11 (b) The substitution of relevant experience for classroom time; and

12 (c) That experienced lay midwives may sit for the licensing
13 examination without completing the required coursework.

14 The training required under this section shall include training in
15 either hospitals or alternative birth settings or both with particular
16 emphasis on learning the ability to differentiate between low-risk and
17 high-risk pregnancies.

18 **Sec. 706.** RCW 18.50.140 and 1991 c 3 s 114 are each amended to
19 read as follows:

20 The midwifery advisory committee is created.

21 The committee shall be composed of one physician who is a
22 practicing obstetrician; one practicing physician; one certified nurse
23 midwife licensed under chapter ~~((18.88))~~ 18.-- RCW (sections 401
24 through 431 of this act); three midwives licensed under this chapter;
25 and one public member, who shall have no financial interest in the
26 rendering of health services. The committee may seek other consultants
27 as appropriate, including persons trained in childbirth education and
28 perinatology or neonatology.

29 The members are appointed by the secretary and serve at the
30 pleasure of the secretary but may not serve more than five years
31 consecutively. The terms of office shall be staggered. Members of the
32 committee shall be reimbursed for travel expenses as provided in RCW
33 43.03.050 and 43.03.060 ~~((as now or hereafter amended))~~.

34 **Sec. 707.** RCW 18.50.115 and 1991 c 3 s 112 are each amended to
35 read as follows:

36 A midwife licensed under this chapter may obtain and administer
37 prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho

1 immune globulin (human), and local anesthetic and may administer such
2 other drugs or medications as prescribed by a physician. A pharmacist
3 who dispenses such drugs to a licensed midwife shall not be liable for
4 any adverse reactions caused by any method of use by the midwife.

5 The secretary, after consultation with representatives of the
6 midwife advisory committee, the board of pharmacy, and the ~~((board of))~~
7 medical ~~((examiners))~~ quality assurance commission, may ~~((issue~~
8 ~~regulations which))~~ adopt rules that authorize licensed midwives to
9 purchase and use legend drugs and devices in addition to the drugs
10 authorized in this chapter.

11 **Sec. 708.** RCW 18.88A.020 and 1991 c 16 s 2 are each amended to
12 read as follows:

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

15 (1) "Department" means the department of health.

16 (2) "Secretary" means the secretary of health.

17 (3) "~~((Board))~~ Commission" means the Washington ~~((state board of))~~
18 nursing care quality assurance commission.

19 (4) "Nursing assistant" means an individual, regardless of title,
20 who, under the direction and supervision of a registered nurse or
21 licensed practical nurse, assists in the delivery of nursing and
22 nursing-related activities to patients in a health care facility. The
23 two levels of nursing assistants are (a) "nursing assistant-certified,"
24 an individual certified under this chapter, (b) "nursing assistant-
25 registered," an individual registered under this chapter.

26 (5) ~~((("Committee" means the Washington state nursing assistant~~
27 ~~advisory committee.~~

28 ~~(6))~~ "Approved training program" means a nursing assistant-
29 certified training program approved by the ~~((board))~~ commission. For
30 community college, vocational-technical institutes, skill centers, and
31 secondary school as defined in chapter 28B.50 RCW, nursing assistant-
32 certified training programs shall be approved by the ~~((board))~~
33 commission in cooperation with the board for community and technical
34 colleges ~~((education))~~ or the superintendent of public instruction.

35 ~~((7))~~ (6) "Health care facility" means a nursing home, hospital,
36 hospice care facility, home health care agency, hospice agency, or
37 other entity for delivery of health care services as defined by the
38 ~~((board))~~ commission.

1 (~~(8)~~) (7) "Competency evaluation" means the measurement of an
2 individual's knowledge and skills as related to safe, competent
3 performance as a nursing assistant.

4 **Sec. 709.** RCW 18.88A.030 and 1991 c 16 s 3 are each amended to
5 read as follows:

6 (1) A nursing assistant may assist in the care of individuals as
7 delegated by and under the direction and supervision of a licensed
8 (registered) nurse or licensed practical nurse.

9 (2) A health care facility shall not assign a nursing assistant-
10 registered to provide care until the nursing assistant-registered has
11 demonstrated skills necessary to perform competently all assigned
12 duties and responsibilities.

13 (3) Nothing in this chapter shall be construed to confer on a
14 nursing assistant the authority to administer medication or to practice
15 as a licensed (registered) nurse (~~(as defined in chapter 18.88 RCW)~~) or
16 licensed practical nurse as defined in chapter (~~(18.78)~~) 18.-- RCW
17 (sections 401 through 431 of this act).

18 (4) Certification is voluntary for nursing assistants working in
19 health care facilities other than nursing homes unless otherwise
20 required by state or federal law or regulation.

21 (5) The (~~board of nursing shall have the authority to~~) commission
22 may adopt rules to implement the provisions of this chapter.

23 **Sec. 710.** RCW 18.88A.060 and 1991 c 16 s 8 are each amended to
24 read as follows:

25 In addition to any other authority provided by law, the (~~state~~
26 ~~board of nursing has the authority to~~) commission may:

27 (1) Determine minimum education requirements and approve training
28 programs;

29 (2) Prepare, grade, and administer, or determine the nature of, and
30 supervise the grading and administration of, examinations of training
31 and competency for applicants for certification;

32 (3) Determine whether alternative methods of training are
33 equivalent to approved training programs, and establish forms,
34 procedures, and criteria for evaluation of an applicant's alternative
35 training to determine the applicant's eligibility to take any
36 qualifying examination for certification;

1 (4) Define and approve any experience requirement for
2 certification;

3 (5) Adopt rules implementing a continuing competency evaluation
4 program;

5 (6) Adopt rules to enable it to carry into effect the provisions of
6 this chapter.

7 **Sec. 711.** RCW 18.88A.080 and 1991 c 16 s 10 are each amended to
8 read as follows:

9 (1) The secretary shall issue a registration to any applicant who
10 pays any applicable fees and submits, on forms provided by the
11 secretary, the applicant's name, address, and other information as
12 determined by the secretary, provided there are no grounds for denial
13 of registration or issuance of a conditional registration under this
14 chapter or chapter 18.130 RCW.

15 (2) Applicants must file an application with the ((board))
16 commission for registration within three days of employment.

17 **Sec. 712.** RCW 18.88A.085 and 1991 c 16 s 11 are each amended to
18 read as follows:

19 (1) After January 1, 1990, the secretary shall issue a certificate
20 to any applicant who demonstrates to the secretary's satisfaction that
21 the following requirements have been met:

22 (a) Completion of an approved training program or successful
23 completion of alternate training meeting established criteria approved
24 by the ((board)) commission; and

25 (b) Successful completion of a competency evaluation.

26 (2) In addition, applicants shall be subject to the grounds for
27 denial of certification under chapter 18.130 RCW.

28 **Sec. 713.** RCW 18.88A.090 and 1991 c 3 s 225 are each amended to
29 read as follows:

30 (1) The date and location of examinations shall be established by
31 the secretary. Applicants who have been found by the secretary to meet
32 the requirements for certification shall be scheduled for the next
33 examination following the filing of the application. The secretary
34 shall establish by rule the examination application deadline.

35 (2) The ((board)) commission shall examine each applicant, by a
36 written or oral and a manual component of competency evaluation.

1 Examinations shall be limited to the purpose of determining whether the
2 applicant possesses the minimum skill and knowledge necessary to
3 practice competently.

4 (3) The examination papers, all grading of the papers, and the
5 grading of skills demonstration shall be preserved for a period of not
6 less than one year after the ((board)) commission has made and
7 published the decisions. All examinations shall be conducted under
8 fair and wholly impartial methods.

9 (4) Any applicant failing to make the required grade in the first
10 examination may take up to three subsequent examinations as the
11 applicant desires upon prepaying a fee determined by the secretary
12 under RCW 43.70.250 for each subsequent examination. Upon failing four
13 examinations, the secretary may invalidate the original application and
14 require such remedial education before the person may take future
15 examinations.

16 (5) The ((board)) commission may approve an examination prepared or
17 administered by a private testing agency or association of licensing
18 agencies for use by an applicant in meeting the credentialing
19 requirements.

20 **Sec. 714.** RCW 18.88A.100 and 1991 c 16 s 12 and 1991 c 3 s 226 are
21 each reenacted and amended to read as follows:

22 The secretary shall waive the competency evaluation and certify a
23 person to practice within the state of Washington if the ((board))
24 commission determines that the person meets commonly accepted standards
25 of education and experience for the nursing assistants. This section
26 applies only to those individuals who file an application for waiver by
27 December 31, 1991.

28 **Sec. 715.** RCW 18.88A.130 and 1991 c 16 s 15 are each amended to
29 read as follows:

30 The secretary shall establish by rule the procedural requirements
31 and fees for renewal of a registration or certificate. Failure to
32 renew shall invalidate the credential and all privileges granted by the
33 credential. If a certificate has lapsed for a period longer than three
34 years, the person shall demonstrate competence to the satisfaction of
35 the ((board)) commission by taking continuing education courses, or
36 meeting other standards determined by the ((board)) commission.

1 **Sec. 716.** RCW 18.89.040 and 1987 c 415 s 5 are each amended to
2 read as follows:

3 A respiratory care practitioner certified under this chapter is
4 employed in the treatment, management, diagnostic testing,
5 rehabilitation, and care of patients with deficiencies and
6 abnormalities which affect the cardiopulmonary system and associated
7 aspects of other systems, and is under the direct order and under the
8 qualified medical direction of a physician. The practice of
9 respiratory care includes, but is not limited to:

- 10 (1) The use and administration of medical gases, exclusive of
11 general anesthesia;
- 12 (2) The use of air and oxygen administering apparatus;
- 13 (3) The use of humidification and aerosols;
- 14 (4) The administration of prescribed pharmacologic agents related
15 to respiratory care;
- 16 (5) The use of mechanical or physiological ventilatory support;
- 17 (6) Postural drainage, chest percussion, and vibration;
- 18 (7) Bronchopulmonary hygiene;
- 19 (8) Cardiopulmonary resuscitation as it pertains to establishing
20 airways and external cardiac compression;
- 21 (9) The maintenance of natural and artificial airways and
22 insertion, without cutting tissues, of artificial airways, as ordered
23 by the attending physician;
- 24 (10) Diagnostic and monitoring techniques such as the measurement
25 of cardiorespiratory volumes, pressures, and flows; and
- 26 (11) The drawing and analyzing of arterial, capillary, and mixed
27 venous blood specimens as ordered by the attending physician or an
28 advanced registered nurse practitioner as authorized by the ((board
29 of)) nursing care quality assurance commission under chapter ((18.88))
30 18.-- RCW (sections 401 through 431 of this act).

31 **Sec. 717.** RCW 18.100.140 and 1987 c 447 s 16 are each amended to
32 read as follows:

33 Nothing in this chapter shall authorize a director, officer,
34 shareholder, agent or employee of a corporation organized under this
35 chapter, or a corporation itself organized under this chapter, to do or
36 perform any act which would be illegal, unethical or unauthorized
37 conduct under the provisions of the following acts: (1) ((Medical
38 disciplinary act)) Physicians and surgeons, chapter ((18.72)) 18.71

1 RCW; (2) anti-rebating act, chapter 19.68 RCW; (3) state bar act,
2 chapter 2.48 RCW; (4) professional accounting act, chapter 18.04 RCW;
3 (5) professional architects act, chapter 18.08 RCW; (6) professional
4 auctioneers act, chapter 18.11 RCW; (7) cosmetologists, barbers, and
5 manicurists, chapter 18.16 RCW; (8) boarding homes act, chapter 18.20
6 RCW; (9) (~~podiatry~~) podiatric medicine and surgery, chapter 18.22
7 RCW; (10) chiropractic act, chapter 18.25 RCW; (11) registration of
8 contractors, chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28
9 RCW; (13) dental hygienist act, chapter 18.29 RCW; (14) dentistry,
10 chapter 18.32 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16)
11 naturopathic (~~aet~~) physicians, chapter 18.36A RCW; (17) embalmers and
12 funeral directors, chapter 18.39 RCW; (18) engineers and land
13 surveyors, chapter 18.43 RCW; (19) escrow agents registration act,
14 chapter 18.44 RCW; (20) maternity homes, chapter 18.46 RCW; (21)
15 midwifery, chapter 18.50 RCW; (22) nursing homes, chapter 18.51 RCW;
16 (23) optometry, chapter 18.53 RCW; (24) (~~osteopathy~~) osteopathic
17 physicians and surgeons, chapter 18.57 RCW; (25) pharmacists, chapter
18 18.64 RCW; (26) physical therapy, chapter 18.74 RCW; (27) registered
19 nurses, advanced registered nurse practitioners, and practical nurses,
20 chapter (~~18.78~~) 18.-- RCW (sections 401 through 431 of this act);
21 (28) psychologists, chapter 18.83 RCW; (29) real estate brokers and
22 salesmen, chapter 18.85 RCW; (30) (~~registered professional nurses,~~
23 ~~chapter 18.88 RCW;~~ (~~31~~)) veterinarians, chapter 18.92 RCW.

24 **Sec. 718.** RCW 18.120.020 and 1989 c 300 s 14 are each amended to
25 read as follows:

26 The definitions contained in this section shall apply throughout
27 this chapter unless the context clearly requires otherwise.

28 (1) "Applicant group" includes any health professional group or
29 organization, any individual, or any other interested party which
30 proposes that any health professional group not presently regulated be
31 regulated or which proposes to substantially increase the scope of
32 practice of the profession.

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

1 (3) "Grandfather clause" means a provision in a regulatory statute
2 applicable to practitioners actively engaged in the regulated health
3 profession prior to the effective date of the regulatory statute which
4 exempts the practitioners from meeting the prerequisite qualifications
5 set forth in the regulatory statute to perform prescribed occupational
6 tasks.

7 (4) "Health professions" means and includes the following health
8 and health-related licensed or regulated professions and occupations:
9 (~~Podiatry~~) Podiatric medicine and surgery under chapter 18.22 RCW;
10 chiropractic under chapter ~~(18.25)~~ 18.25 ~~((and 18.26 RCW))~~; dental hygiene
11 under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing
12 opticians under chapter 18.34 RCW; hearing aids under chapter 18.35
13 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral
14 directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW;
15 nursing home administration under chapter 18.52 RCW; optometry under
16 chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW;
17 osteopathy and osteopathic medicine and surgery under chapters 18.57
18 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
19 under chapters 18.71~~((7))~~ and 18.71A~~((7, and 18.72))~~ RCW; emergency
20 medicine under chapter 18.73 RCW; physical therapy under chapter 18.74
21 RCW; practical nurses under chapter ~~((18.78))~~ 18.-- RCW (sections 401
22 through 431 of this act); psychologists under chapter 18.83 RCW;
23 registered nurses under chapter ~~((18.88))~~ 18.-- RCW (sections 401
24 through 431 of this act); occupational therapists licensed ~~((pursuant~~
25 ~~to))~~ under chapter 18.59 RCW; respiratory care practitioners certified
26 under chapter 18.89 RCW; veterinarians and animal technicians under
27 chapter 18.92 RCW; health care assistants under chapter 18.135 RCW;
28 massage practitioners under chapter 18.108 RCW; acupuncturists
29 certified under chapter 18.06 RCW; persons registered or certified
30 under chapter 18.19 RCW; dietitians and nutritionists certified by
31 chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and
32 nursing assistants registered or certified under chapter 18.88A RCW.

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

37 (6) "Legislative committees of reference" means the standing
38 legislative committees designated by the respective rules committees of

1 the senate and house of representatives to consider proposed
2 legislation to regulate health professions not previously regulated.

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

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

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

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

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

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

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

36 **Sec. 719.** RCW 18.135.020 and 1991 c 3 s 272 are each amended to
37 read as follows:

38 As used in this chapter:

1 (1) "Secretary" means the secretary of health.

2 (2) "Health care assistant" means an unlicensed person who assists
3 a licensed health care practitioner in providing health care to
4 patients pursuant to this chapter.

5 (3) "Health care practitioner" means:

6 (a) A physician licensed under chapter 18.71 RCW;

7 (b) An osteopathic physician or surgeon licensed under chapter
8 18.57 RCW; or

9 (c) Acting within the scope of their respective licensure, a
10 (~~podiatrist~~) podiatric physician and surgeon licensed under chapter
11 18.22 RCW or a registered nurse or advanced registered nurse
12 practitioner licensed under chapter (~~18.88~~) 18.-- RCW (sections 401
13 through 431 of this act).

14 (4) "Supervision" means supervision of procedures permitted
15 pursuant to this chapter by a health care practitioner who is
16 physically present and is immediately available in the facility during
17 the administration of injections, as defined in this chapter, but need
18 not be present during procedures to withdraw blood.

19 (5) "Health care facility" means any hospital, hospice care center,
20 licensed or certified health care facility, health maintenance
21 organization regulated under chapter 48.46 RCW, federally qualified
22 health maintenance organization, renal dialysis center or facility
23 federally approved under 42 C.F.R. 405.2100, blood bank federally
24 licensed under 21 C.F.R. 607, or clinical laboratory certified under 20
25 C.F.R. 405.1301-16.

26 (6) "Delegation" means direct authorization granted by a licensed
27 health care practitioner to a health care assistant to perform the
28 functions authorized in this chapter which fall within the scope of
29 practice of the delegator and which are not within the scope of
30 practice of the delegatee.

31 **Sec. 720.** RCW 28A.210.260 and 1982 c 195 s 1 are each amended to
32 read as follows:

33 Public school districts and private schools which conduct any of
34 grades kindergarten through the twelfth grade may provide for the
35 administration of oral medication of any nature to students who are in
36 the custody of the school district or school at the time of
37 administration, but are not required to do so by this section, subject
38 to the following conditions:

1 (1) The board of directors of the public school district or the
2 governing board of the private school or, if none, the chief
3 administrator of the private school shall adopt policies which address
4 the designation of employees who may administer oral medications to
5 students, the acquisition of parent requests and instructions, and the
6 acquisition of dentist and physician requests and instructions
7 regarding students who require medication for more than fifteen
8 consecutive school days, the identification of the medication to be
9 administered, the means of safekeeping medications with special
10 attention given to the safeguarding of legend drugs as defined in
11 chapter 69.41 RCW, and the means of maintaining a record of the
12 administration of such medication;

13 (2) The board of directors shall seek advice from one or more
14 licensed physicians or nurses in the course of developing the foregoing
15 policies;

16 (3) The public school district or private school is in receipt of
17 a written, current and unexpired request from a parent, or a legal
18 guardian, or other person having legal control over the student to
19 administer the medication to the student;

20 (4) The public school district or the private school is in receipt
21 of (a) a written, current and unexpired request from a licensed
22 physician or dentist for administration of the medication, as there
23 exists a valid health reason which makes administration of such
24 medication advisable during the hours when school is in session or the
25 hours in which the student is under the supervision of school
26 officials, and (b) written, current and unexpired instructions from
27 such physician or dentist regarding the administration of prescribed
28 medication to students who require medication for more than fifteen
29 consecutive work days;

30 (5) The medication is administered by an employee designated by or
31 pursuant to the policies adopted pursuant to subsection (1) of this
32 section and in substantial compliance with the prescription of a
33 physician or dentist or the written instructions provided pursuant to
34 subsection (4) of this section;

35 (6) The medication is first examined by the employee administering
36 the same to determine in his or her judgment that it appears to be in
37 the original container and to be properly labeled; and

38 (7) The board of directors shall designate a professional person
39 licensed pursuant to chapter 18.71 RCW or (~~18.88~~) chapter 18.-- RCW

1 (sections 401 through 431 of this act) as it applies to registered
2 nurses and advanced registered nurse practitioners, to train and
3 supervise the designated school district personnel in proper medication
4 procedures.

5 **Sec. 721.** RCW 28A.210.280 and 1988 c 48 s 2 are each amended to
6 read as follows:

7 (1) Public school districts and private schools that offer classes
8 for any of grades kindergarten through twelve may provide for clean,
9 intermittent bladder catheterization of students, or assisted self-
10 catheterization of students pursuant to (~~RCW 18.88.295: PROVIDED,~~
11 ~~That~~) section 429 of this act, if the catheterization is provided for
12 in substantial compliance with:

13 (a) Rules adopted by the state (~~board of~~) nursing care quality
14 assurance commission and the instructions of a registered nurse or
15 advanced registered nurse practitioner issued under such rules; and

16 (b) Written policies of the school district or private school which
17 shall be adopted in order to implement this section and shall be
18 developed in accordance with such requirements of chapters 41.56 and
19 41.59 RCW as may be applicable.

20 (2) This section does not require school districts to provide
21 intermittent bladder catheterization of students.

22 **Sec. 722.** RCW 28A.210.290 and 1990 c 33 s 209 are each amended to
23 read as follows:

24 (1) In the event a school employee provides for the catheterization
25 of a student pursuant to RCW (~~18.88.295~~) 18.---.--- (section 429 of
26 this act) and 28A.210.280 in substantial compliance with (a) rules
27 adopted by the state (~~board of~~) nursing care quality assurance
28 commission and the instructions of a registered nurse or advanced
29 registered nurse practitioner issued under such rules, and (b) written
30 policies of the school district or private school, then the employee,
31 the employee's school district or school of employment, and the members
32 of the governing board and chief administrator thereof shall not be
33 liable in any criminal action or for civil damages in their individual,
34 marital, governmental, corporate, or other capacity as a result of
35 providing for the catheterization.

36 (2) Providing for the catheterization of any student pursuant to
37 RCW (~~18.88.295~~) 18.---.--- (section 429 of this act) and 28A.210.280

1 may be discontinued by a public school district or private school and
2 the school district or school, its employees, its chief administrator,
3 and members of its governing board shall not be liable in any criminal
4 action or for civil damages in their individual, marital, governmental,
5 corporate, or other capacity as a result of the discontinuance:
6 PROVIDED, That the chief administrator of the public school district or
7 private school, or his or her designee, has first provided actual
8 notice orally or in writing in advance of the date of discontinuance to
9 a parent or legal guardian of the student or other person having legal
10 control over the student: PROVIDED FURTHER, That the public school
11 district otherwise provides for the catheterization of the student to
12 the extent required by federal or state law.

13 **Sec. 723.** RCW 28C.10.030 and 1990 c 188 s 6 are each amended to
14 read as follows:

15 This chapter does not apply to:

16 (1) Bona fide trade, business, professional, or fraternal
17 organizations sponsoring educational programs primarily for that
18 organization's membership or offered by that organization on a no-fee
19 basis;

20 (2) Entities offering education that is exclusively avocational or
21 recreational;

22 (3) Education not requiring payment of money or other consideration
23 if this education is not advertised or promoted as leading toward
24 educational credentials;

25 (4) Entities that are established, operated, and governed by this
26 state or its political subdivisions under Title 28A, 28B, or 28C RCW;

27 (5) Degree-granting programs in compliance with the rules of the
28 higher education coordinating board;

29 (6) Any other entity to the extent that it has been exempted from
30 some or all of the provisions of this chapter under RCW 28C.10.100;

31 (7) Entities not otherwise exempt that are of a religious
32 character, but only as to those educational programs exclusively
33 devoted to religious or theological objectives and represented
34 accurately in institutional catalogs or other official publications;

35 (8) Entities offering only courses certified by the federal
36 aviation administration;

37 (9) Barber and cosmetology schools licensed under chapter 18.16
38 RCW;

1 (10) Entities which only offer courses approved to meet the
2 continuing education requirements for licensure under chapter(~~(§)~~)
3 18.04, (~~(18.78, 18.88)~~) 18.-- (sections 401 through 431 of this act),
4 or 48.17 RCW; and

5 (11) Entities not otherwise exempt offering only workshops or
6 seminars lasting no longer than three calendar days.

7 **Sec. 724.** RCW 41.05.075 and 1993 c 386 s 10 are each amended to
8 read as follows:

9 (1) The administrator shall provide benefit plans designed by the
10 board through a contract or contracts with insuring entities, through
11 self-funding, self-insurance, or other methods of providing insurance
12 coverage authorized by RCW 41.05.140.

13 (2) The administrator shall establish a contract bidding process
14 that encourages competition among insuring entities, is timely to the
15 state budgetary process, and sets conditions for awarding contracts to
16 any insuring entity.

17 (3) The administrator shall establish a requirement for review of
18 utilization and financial data from participating insuring entities on
19 a quarterly basis.

20 (4) The administrator shall centralize the enrollment files for all
21 employee and retired or disabled school employee health plans offered
22 under chapter 41.05 RCW and develop enrollment demographics on a plan-
23 specific basis.

24 (5) The administrator shall establish methods for collecting,
25 analyzing, and disseminating to covered individuals information on the
26 cost and quality of services rendered by individual health care
27 providers.

28 (6) All claims data shall be the property of the state. The
29 administrator may require of any insuring entity that submits a bid to
30 contract for coverage all information deemed necessary to fulfill the
31 administrator's duties as set forth in this chapter.

32 (7) All contracts with insuring entities for the provision of
33 health care benefits shall provide that the beneficiaries of such
34 benefit plans may use on an equal participation basis the services of
35 practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53,
36 18.57, 18.71, 18.74, 18.83, and (~~(18.88 RCW)~~) 18.-- RCW (sections 401
37 through 431 of this act), as it applies to registered nurses and
38 advanced registered nurse practitioners. However, nothing in this

1 subsection may preclude the administrator from establishing appropriate
2 utilization controls approved pursuant to RCW 41.05.065(2) (a)((~~i~~)),
3 (b), and (d).

4 (8) Beginning in January 1990, and each January thereafter, the
5 administrator shall publish and distribute to each school district a
6 description of health care benefit plans available through the
7 authority and the estimated cost if school district employees were
8 enrolled.

9 **Sec. 725.** RCW 41.05.180 and 1989 c 338 s 5 are each amended to
10 read as follows:

11 Each health plan offered to public employees and their covered
12 dependents under this chapter that is not subject to the provisions of
13 Title 48 RCW and is established or renewed after January 1, 1990, and
14 that provides benefits for hospital or medical care shall provide
15 benefits for screening or diagnostic mammography services, provided
16 that such services are delivered upon the recommendation of the
17 patient's physician or advanced registered nurse practitioner as
18 authorized by the (~~board of~~) nursing care quality assurance
19 commission pursuant to chapter (~~18.88~~) 18.-- RCW (sections 401
20 through 431 of this act) or physician(~~s~~) assistant pursuant to
21 chapter 18.71A RCW.

22 This section shall not be construed to prevent the application of
23 standard health plan provisions applicable to other benefits such as
24 deductible or copayment provisions. This section does not limit the
25 authority of the state health care authority to negotiate rates and
26 contract with specific providers for the delivery of mammography
27 services. This section shall not apply to medicare supplement policies
28 or supplemental contracts covering a specified disease or other limited
29 benefits.

30 **Sec. 726.** RCW 42.17.316 and 1987 c 416 s 7 are each amended to
31 read as follows:

32 The disclosure requirements of this chapter shall not apply to
33 records of the committee obtained in an action under RCW 18.72.301
34 through 18.72.321 (as recodified by this act).

35 **Sec. 727.** RCW 43.70.220 and 1989 1st ex.s. c 9 s 301 are each
36 amended to read as follows:

1 The powers and duties of the department of licensing and the
2 director of licensing under the following statutes are hereby
3 transferred to the department of health and the secretary of health:
4 Chapters 18.06, 18.19, 18.22, 18.25, (~~18.26~~) 18.29, 18.32, 18.34,
5 18.35, 18.36A, 18.50, 18.52, (~~18.52A, 18.52B~~) 18.52C, 18.53, 18.54,
6 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, (~~18.72~~) 18.74,
7 (~~18.78~~) 18.83, 18.84, (~~18.88~~) 18.-- (sections 401 through 431 of
8 this act), 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More
9 specifically, the health professions regulatory programs and services
10 presently administered by the department of licensing are hereby
11 transferred to the department of health.

12 **Sec. 728.** RCW 48.20.393 and 1989 c 338 s 1 are each amended to
13 read as follows:

14 Each disability insurance policy issued or renewed after January 1,
15 1990, that provides coverage for hospital or medical expenses shall
16 provide coverage for screening or diagnostic mammography services,
17 provided that such services are delivered upon the recommendation of
18 the patient's physician or advanced registered nurse practitioner as
19 authorized by the (~~board of~~) nursing care quality assurance
20 commission pursuant to chapter (~~18.88~~) 18.-- RCW (sections 401
21 through 431 of this act) or physician(~~s~~) assistant pursuant to
22 chapter 18.71A RCW.

23 This section shall not be construed to prevent the application of
24 standard policy provisions applicable to other benefits such as
25 deductible or copayment provisions. This section does not limit the
26 authority of an insurer to negotiate rates and contract with specific
27 providers for the delivery of mammography services. This section shall
28 not apply to medicare supplement policies or supplemental contracts
29 covering a specified disease or other limited benefits.

30 **Sec. 729.** RCW 48.20.411 and 1973 1st ex.s. c 188 s 3 are each
31 amended to read as follows:

32 Notwithstanding any provision of any disability insurance contract
33 as provided for in this chapter, benefits shall not be denied
34 thereunder for any health care service performed by a holder of a
35 license for registered nursing practice or advanced registered nursing
36 practice issued pursuant to chapter (~~18.88~~) 18.-- RCW (sections 401
37 through 431 of this act) if (1) the service performed was within the

1 lawful scope of such person's license, and (2) such contract would have
2 provided benefits if such service had been performed by a holder of a
3 license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That
4 no provision of chapter 18.71 RCW shall be asserted to deny benefits
5 under this section.

6 The provisions of this section are intended to be remedial and
7 procedural to the extent they do not impair the obligation of any
8 existing contract.

9 **Sec. 730.** RCW 48.21.141 and 1973 1st ex.s. c 188 s 4 are each
10 amended to read as follows:

11 Notwithstanding any provision of any group disability insurance
12 contract or blanket disability insurance contract as provided for in
13 this chapter, benefits shall not be denied thereunder for any health
14 service performed by a holder of a license for registered nursing
15 practice or advanced registered nursing practice issued pursuant to
16 chapter ~~((18.88))~~ 18.-- RCW (sections 401 through 431 of this act) if
17 (1) the service performed was within the lawful scope of such person's
18 license, and (2) such contract would have provided benefits if such
19 service had been performed by a holder of a license issued pursuant to
20 chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter
21 18.71 RCW shall be asserted to deny benefits under this section.

22 The provisions of this section are intended to be remedial and
23 procedural to the extent they do not impair the obligation of any
24 existing contract.

25 **Sec. 731.** RCW 48.21.225 and 1989 c 338 s 2 are each amended to
26 read as follows:

27 Each group disability insurance policy issued or renewed after
28 January 1, 1990, that provides coverage for hospital or medical
29 expenses shall provide coverage for screening or diagnostic mammography
30 services, provided that such services are delivered upon the
31 recommendation of the patient's physician or advanced registered nurse
32 practitioner as authorized by the ~~((board of))~~ nursing care quality
33 assurance commission pursuant to chapter ~~((18.88))~~ 18.-- RCW (sections
34 401 through 431 of this act) or physician~~((s))~~ assistant pursuant to
35 chapter 18.71A RCW.

36 This section shall not be construed to prevent the application of
37 standard policy provisions applicable to other benefits such as

1 deductible or copayment provisions. This section does not limit the
2 authority of an insurer to negotiate rates and contract with specific
3 providers for the delivery of mammography services. This section shall
4 not apply to medicare supplement policies or supplemental contracts
5 covering a specified disease or other limited benefits.

6 **Sec. 732.** RCW 48.44.026 and 1990 c 120 s 6 are each amended to
7 read as follows:

8 Checks in payment for claims pursuant to any health care service
9 contract for health care services provided by persons licensed or
10 regulated under chapters (~~((18.22,))~~) 18.25, 18.29, 18.32, 18.53, 18.57,
11 18.64, 18.71, 18.73, 18.74, 18.83, or (~~((18.88 RCW))~~) 18.-- RCW (sections
12 401 through 431 of this act), as it applies to registered nurses and
13 advanced registered nurse practitioners, where the provider is not a
14 participating provider under a contract with the health care service
15 contractor, shall be made out to both the provider and the enrolled
16 participant with the provider as the first named payee, jointly, to
17 require endorsement by each: PROVIDED, That payment shall be made in
18 the single name of the enrolled participant if the enrolled participant
19 as part of his or her claim furnishes evidence of prepayment to the
20 health care service provider: AND PROVIDED FURTHER, That nothing in
21 this section shall preclude a health care service contractor from
22 voluntarily issuing payment in the single name of the provider.

23 **Sec. 733.** RCW 48.44.290 and 1986 c 223 s 6 are each amended to
24 read as follows:

25 Notwithstanding any provision of this chapter, for any health care
26 service contract thereunder which is entered into or renewed after July
27 26, 1981, benefits shall not be denied under such contract for any
28 health care service performed by a holder of a license for registered
29 nursing practice or advanced registered nursing practice issued
30 pursuant to chapter (~~((18.88))~~) 18.-- RCW (sections 401 through 431 of
31 this act) if (1) the service performed was within the lawful scope of
32 such person's license, and (2) such contract would have provided
33 benefits if such service had been performed by a holder of a license
34 issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no
35 provision of chapter 18.71 RCW shall be asserted to deny benefits under
36 this section.

1 The provisions of this section are intended to be remedial and
2 procedural to the extent that they do not impair the obligation of any
3 existing contract.

4 **Sec. 734.** RCW 48.44.325 and 1989 c 338 s 3 are each amended to
5 read as follows:

6 Each health care service contract issued or renewed after January
7 1, 1990, that provides benefits for hospital or medical care shall
8 provide benefits for screening or diagnostic mammography services,
9 provided that such services are delivered upon the recommendation of
10 the patient's physician or advanced registered nurse practitioner as
11 authorized by the ((board of)) nursing care quality assurance
12 commission pursuant to chapter ((18.88)) 18.-- RCW (sections 401
13 through 431 of this act) or physician((s)) assistant pursuant to
14 chapter 18.71A RCW.

15 This section shall not be construed to prevent the application of
16 standard contract provisions applicable to other benefits such as
17 deductible or copayment provisions. This section does not limit the
18 authority of a contractor to negotiate rates and contract with specific
19 providers for the delivery of mammography services. This section shall
20 not apply to medicare supplement policies or supplemental contracts
21 covering a specified disease or other limited benefits.

22 **Sec. 735.** RCW 48.46.275 and 1989 c 338 s 4 are each amended to
23 read as follows:

24 Each health maintenance agreement issued or renewed after January
25 1, 1990, that provides benefits for hospital or medical care shall
26 provide benefits for screening or diagnostic mammography services,
27 provided that such services are delivered upon the recommendation of
28 the patient's physician or advanced registered nurse practitioner as
29 authorized by the ((board of)) nursing care quality assurance
30 commission pursuant to chapter ((18.88)) 18.-- RCW (sections 401
31 through 431 of this act) or physician((s)) assistant pursuant to
32 chapter 18.71A RCW.

33 All services must be provided by the health maintenance
34 organization or rendered upon referral by the health maintenance
35 organization. This section shall not be construed to prevent the
36 application of standard agreement provisions applicable to other
37 benefits such as deductible or copayment provisions. This section does

1 not limit the authority of a health maintenance organization to
2 negotiate rates and contract with specific providers for the delivery
3 of mammography services. This section shall not apply to medicare
4 supplement policies or supplemental contracts covering a specified
5 disease or other limited benefits.

6 **Sec. 736.** RCW 69.41.010 and 1989 1st ex.s. c 9 s 426 and 1989 c 36
7 s 3 are each reenacted and amended to read as follows:

8 As used in this chapter, the following terms (~~has~~ ~~have~~) have
9 the (~~meaning[s]~~) meanings indicated unless the context clearly
10 requires otherwise:

11 (1) "Administer" means the direct application of a legend drug
12 whether by injection, inhalation, ingestion, or any other means, to the
13 body of a patient or research subject by:

14 (a) A practitioner; or

15 (b) The patient or research subject at the direction of the
16 practitioner.

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

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

21 (4) "Dispense" means the interpretation of a prescription or order
22 for a legend drug and, pursuant to that prescription or order, the
23 proper selection, measuring, compounding, labeling, or packaging
24 necessary to prepare that prescription or order for delivery.

25 (5) "Dispenser" means a practitioner who dispenses.

26 (6) "Distribute" means to deliver other than by administering or
27 dispensing a legend drug.

28 (7) "Distributor" means a person who distributes.

29 (8) "Drug" means:

30 (a) Substances recognized as drugs in the official United States
31 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
32 or official national formulary, or any supplement to any of them;

33 (b) Substances intended for use in the diagnosis, cure, mitigation,
34 treatment, or prevention of disease in man or animals;

35 (c) Substances (other than food, minerals or vitamins) intended to
36 affect the structure or any function of the body of man or animals; and

1 (d) Substances intended for use as a component of any article
2 specified in clause (a), (b), or (c) of this subsection. It does not
3 include devices or their components, parts, or accessories.

4 (9) "Legend drugs" means any drugs which are required by state law
5 or regulation of the state board of pharmacy to be dispensed on
6 prescription only or are restricted to use by practitioners only.

7 (10) "Person" means individual, corporation, government or
8 governmental subdivision or agency, business trust, estate, trust,
9 partnership or association, or any other legal entity.

10 (11) "Practitioner" means:

11 (a) A physician under chapter 18.71 RCW, an osteopathic physician
12 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
13 dentist under chapter 18.32 RCW, a ~~((podiatrist))~~ podiatric physician
14 and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92
15 RCW, a registered nurse ~~((under chapter 18.88 RCW, a)),~~ advanced
16 registered nurse practitioner, or licensed practical nurse under
17 chapter ~~((18.78))~~ 18.-- RCW (sections 401 through 431 of this act), an
18 optometrist under chapter 18.53 RCW who is certified by the optometry
19 board under RCW 18.53.010, an osteopathic physician~~((s))~~ assistant
20 under chapter 18.57A RCW, ~~((or))~~ a physician~~((s))~~ assistant under
21 chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

22 (b) A pharmacy, hospital, or other institution licensed,
23 registered, or otherwise permitted to distribute, dispense, conduct
24 research with respect to, or to administer a legend drug in the course
25 of professional practice or research in this state; and

26 (c) A physician licensed to practice medicine and surgery or a
27 physician licensed to practice osteopathy and surgery in any state, or
28 province of Canada, which shares a common border with the state of
29 Washington.

30 (12) "Secretary" means the secretary of health or the secretary's
31 designee.

32 **Sec. 737.** RCW 69.41.030 and 1991 c 30 s 1 are each amended to read
33 as follows:

34 It shall be unlawful for any person to sell, deliver, or possess
35 any legend drug except upon the order or prescription of a physician
36 under chapter 18.71 RCW, an osteopathic physician or an osteopathic
37 physician and surgeon under chapter 18.57 RCW, a dentist under chapter
38 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW,

1 a veterinarian under chapter 18.92 RCW, a commissioned medical or
2 dental officer in the United States armed forces or public health
3 service in the discharge of his or her official duties, a duly licensed
4 physician or dentist employed by the veterans administration in the
5 discharge of his or her official duties, a registered nurse or advanced
6 registered nurse practitioner under chapter ~~((18.88))~~ 18.-- RCW
7 (sections 401 through 431 of this act) when authorized by the ~~((board~~
8 ~~of))~~ nursing care quality assurance commission, an osteopathic
9 physician~~((s))~~ assistant under chapter 18.57A RCW when authorized by
10 the ~~((committee))~~ board of osteopathic examiners, a physician assistant
11 under chapter 18.71A RCW when authorized by the ~~((board of))~~ medical
12 ~~((examiners))~~ quality assurance commission, a physician licensed to
13 practice medicine and surgery or a physician licensed to practice
14 osteopathy and surgery, a dentist licensed to practice dentistry, a
15 podiatric physician and surgeon licensed to practice podiatric medicine
16 and surgery, or a veterinarian licensed to practice veterinary
17 medicine, in any province of Canada which shares a common border with
18 the state of Washington or in any state of the United States:
19 PROVIDED, HOWEVER, That the above provisions shall not apply to sale,
20 delivery, or possession by drug wholesalers or drug manufacturers, or
21 their agents or employees, or to any practitioner acting within the
22 scope of his or her license, or to a common or contract carrier or
23 warehouseman, or any employee thereof, whose possession of any legend
24 drug is in the usual course of business or employment: PROVIDED
25 FURTHER, That nothing in this chapter or chapter 18.64 RCW shall
26 prevent a family planning clinic that is under contract with the
27 department of social and health services from selling, delivering,
28 possessing, and dispensing commercially prepackaged oral contraceptives
29 prescribed by authorized, licensed health care practitioners.

30 **Sec. 738.** RCW 69.45.010 and 1989 1st ex.s. c 9 s 444 are each
31 amended to read as follows:

32 The definitions in this section apply throughout this chapter.

33 (1) "Board" means the board of pharmacy.

34 (2) "Drug samples" means any federal food and drug administration
35 approved controlled substance, legend drug, or products requiring
36 prescriptions in this state, which is distributed at no charge to a
37 practitioner by a manufacturer or a manufacturer's representative,

1 exclusive of drugs under clinical investigations approved by the
2 federal food and drug administration.

3 (3) "Controlled substance" means a drug, substance, or immediate
4 precursor of such drug or substance, so designated under or pursuant to
5 chapter 69.50 RCW, the uniform controlled substances act.

6 (4) "Deliver" or "delivery" means the actual, constructive, or
7 attempted transfer from one person to another of a drug or device,
8 whether or not there is an agency relationship.

9 (5) "Dispense" means the interpretation of a prescription or order
10 for a drug, biological, or device and, pursuant to that prescription or
11 order, the proper selection, measuring, compounding, labeling, or
12 packaging necessary to prepare that prescription or order for delivery.

13 (6) "Distribute" means to deliver, other than by administering or
14 dispensing, a legend drug.

15 (7) "Legend drug" means any drug that is required by state law or
16 by regulations of the board to be dispensed on prescription only or is
17 restricted to use by practitioners only.

18 (8) "Manufacturer" means a person or other entity engaged in the
19 manufacture or distribution of drugs or devices, but does not include
20 a manufacturer's representative.

21 (9) "Person" means any individual, corporation, government or
22 governmental subdivision or agency, business trust, estate, trust,
23 partnership, association, or any other legal entity.

24 (10) "Practitioner" means a physician under chapter 18.71 RCW, an
25 osteopathic physician or an osteopathic physician and surgeon under
26 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a ~~((podiatrist))~~
27 podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian
28 under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a
29 commissioned medical or dental officer in the United States armed
30 forces or the public health service in the discharge of his or her
31 official duties, a duly licensed physician or dentist employed by the
32 veterans administration in the discharge of his or her official duties,
33 a registered nurse or advanced registered nurse practitioner under
34 chapter ~~((18.88))~~ 18.-- RCW (sections 401 through 431 of this act) when
35 authorized to prescribe by the ~~((board of))~~ nursing care quality
36 assurance commission, an osteopathic ~~((physician's))~~ physician
37 assistant under chapter 18.57A RCW when authorized by the board of
38 osteopathic medicine and surgery, or a ~~((physician's))~~ physician

1 assistant under chapter 18.71A RCW when authorized by the ((board of))
2 medical ((examiners)) quality assurance commission.

3 (11) "Manufacturer's representative" means an agent or employee of
4 a drug manufacturer who is authorized by the drug manufacturer to
5 possess drug samples for the purpose of distribution in this state to
6 appropriately authorized health care practitioners.

7 (12) "Reasonable cause" means a state of facts found to exist that
8 would warrant a reasonably intelligent and prudent person to believe
9 that a person has violated state or federal drug laws or regulations.

10 (13) "Department" means the department of health.

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

13 **Sec. 739.** RCW 69.50.101 and 1993 c 187 s 1 are each amended to
14 read as follows:

15 Unless the context clearly requires otherwise, definitions of terms
16 shall be as indicated where used in this chapter:

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

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

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

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

28 (c) "Board" means the state board of pharmacy.

29 (d) "Controlled substance" means a drug, substance, or immediate
30 precursor included in Schedules I through V as set forth in federal or
31 state laws, or federal or board rules.

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

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

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

7 (2) The term does not include:

8 (i) a controlled substance;

9 (ii) a substance for which there is an approved new drug
10 application;

11 (iii) a substance with respect to which an exemption is in effect
12 for investigational use by a particular person under Section 505 of the
13 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
14 conduct with respect to the substance is pursuant to the exemption; or

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

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

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

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

25 (i) "Dispenser" means a practitioner who dispenses.

26 (j) "Distribute" means to deliver other than by administering or
27 dispensing a controlled substance.

28 (k) "Distributor" means a person who distributes.

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

1 (m) "Drug enforcement administration" means the drug enforcement
2 administration in the United States Department of Justice, or its
3 successor agency.

4 (n) "Immediate precursor" means a substance:

5 (1) that the state board of pharmacy has found to be and by rule
6 designates as being the principal compound commonly used, or produced
7 primarily for use, in the manufacture of a controlled substance;

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

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

12 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
13 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
14 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
15 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
16 69.50.204(c), and 69.50.208(a) the term includes any positional or
17 geometric isomer.

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

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

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

33 (q) "Marijuana" or "marihuana" means all parts of the plant
34 Cannabis, whether growing or not; the seeds thereof; the resin
35 extracted from any part of the plant; and every compound, manufacture,
36 salt, derivative, mixture, or preparation of the plant, its seeds or
37 resin. The term does not include the mature stalks of the plant, fiber
38 produced from the stalks, oil or cake made from the seeds of the plant,
39 any other compound, manufacture, salt, derivative, mixture, or

1 preparation of the mature stalks (except the resin extracted
2 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
3 which is incapable of germination.

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

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

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

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

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

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

22 (6) Cocaine base.

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

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

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

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

38 (u) "Person" means individual, corporation, business trust, estate,
39 trust, partnership, association, joint venture, government,

1 governmental subdivision or agency, or any other legal or commercial
2 entity.

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

5 (w) "Practitioner" means:

6 (1) A physician under chapter 18.71 RCW, a physician assistant
7 under chapter 18.71A RCW, an osteopathic physician and surgeon under
8 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
9 physician and surgeon under chapter 18.22 RCW, a veterinarian under
10 chapter 18.92 RCW, a registered nurse, advanced registered nurse
11 practitioner, or licensed practical nurse under chapter ~~((18.88))~~ 18.--
12 RCW (sections 401 through 431 of this act), ~~((a licensed practical~~
13 ~~nurse under chapter 18.78 RCW,))~~ a pharmacist under chapter 18.64 RCW
14 or a scientific investigator under this chapter, licensed, registered
15 or otherwise permitted insofar as is consistent with those licensing
16 laws to distribute, dispense, conduct research with respect to or
17 administer a controlled substance in the course of their professional
18 practice or research in this state.

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

23 (3) A physician licensed to practice medicine and surgery, a
24 physician licensed to practice osteopathy and surgery, a dentist
25 licensed to practice dentistry, a podiatric physician and surgeon
26 licensed to practice podiatric medicine and surgery, or a veterinarian
27 licensed to practice veterinary medicine in any state of the United
28 States.

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

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

35 (z) "Secretary" means the secretary of health or the secretary's
36 designee.

37 (aa) "State," unless the context otherwise requires, means a state
38 of the United States, the District of Columbia, the Commonwealth of

1 Puerto Rico, or a territory or insular possession subject to the
2 jurisdiction of the United States.

3 (bb) "Ultimate user" means an individual who lawfully possesses a
4 controlled substance for the individual's own use or for the use of a
5 member of the individual's household or for administering to an animal
6 owned by the individual or by a member of the individual's household.

7 **Sec. 740.** RCW 69.50.402 and 1980 c 138 s 6 are each amended to
8 read as follows:

9 (a) It is unlawful for any person:

10 (1) who is subject to Article III to distribute or dispense a
11 controlled substance in violation of RCW 69.50.308;

12 (2) who is a registrant, to manufacture a controlled substance not
13 authorized by his registration, or to distribute or dispense a
14 controlled substance not authorized by his registration to another
15 registrant or other authorized person;

16 (3) who is a practitioner, to prescribe, order, dispense,
17 administer, supply, or give to any person:

18 (i) any amphetamine, including its salts, optical isomers, and
19 salts of optical isomers classified as a schedule II controlled
20 substance by the board of pharmacy pursuant to chapter 34.05 RCW; or

21 (ii) any nonnarcotic stimulant classified as a schedule II
22 controlled substance and designated as a nonnarcotic stimulant by the
23 board of pharmacy pursuant to chapter 34.05 RCW;

24 except for the treatment of narcolepsy or for the treatment of
25 hyperkinesia, or for the treatment of drug-induced brain dysfunction,
26 or for the treatment of epilepsy, or for the differential diagnostic
27 psychiatric evaluation of depression, or for the treatment of
28 depression shown to be refractory to other therapeutic modalities, or
29 for the clinical investigation of the effects of such drugs or
30 compounds, in which case an investigative protocol therefor shall have
31 been submitted to and reviewed and approved by the state board of
32 pharmacy before the investigation has been begun: PROVIDED, That the
33 board of pharmacy, in consultation with the medical (~~disciplinary~~
34 ~~board~~) quality assurance commission and the osteopathic disciplinary
35 board, may establish by rule, pursuant to chapter 34.05 RCW, disease
36 states or conditions in addition to those listed in this subsection for
37 the treatment of which Schedule II nonnarcotic stimulants may be
38 prescribed, ordered, dispensed, administered, supplied, or given to

1 patients by practitioners: AND PROVIDED, FURTHER, That investigations
2 by the board of pharmacy of abuse of prescriptive authority by
3 physicians, licensed pursuant to chapter 18.71 RCW, pursuant to
4 subsection (a)(3) of this section shall be done in consultation with
5 the medical (~~(disciplinary board)~~) quality assurance commission;

6 (4) to refuse or fail to make, keep or furnish any record,
7 notification, order form, statement, invoice, or information required
8 under this chapter;

9 (5) to refuse an entry into any premises for any inspection
10 authorized by this chapter; or

11 (6) knowingly to keep or maintain any store, shop, warehouse,
12 dwelling, building, vehicle, boat, aircraft, or other structure or
13 place, which is resorted to by persons using controlled substances in
14 violation of this chapter for the purpose of using these substances, or
15 which is used for keeping or selling them in violation of this chapter.

16 (b) Any person who violates this section is guilty of a crime and
17 upon conviction may be imprisoned for not more than two years, fined
18 not more than two thousand dollars, or both.

19 **Sec. 741.** RCW 70.02.030 and 1993 c 448 s 3 are each amended to
20 read as follows:

21 (1) A patient may authorize a health care provider to disclose the
22 patient's health care information. A health care provider shall honor
23 an authorization and, if requested, provide a copy of the recorded
24 health care information unless the health care provider denies the
25 patient access to health care information under RCW 70.02.090.

26 (2) A health care provider may charge a reasonable fee for
27 providing the health care information and is not required to honor an
28 authorization until the fee is paid.

29 (3) To be valid, a disclosure authorization to a health care
30 provider shall:

31 (a) Be in writing, dated, and signed by the patient;

32 (b) Identify the nature of the information to be disclosed;

33 (c) Identify the name, address, and institutional affiliation of
34 the person to whom the information is to be disclosed;

35 (d) Except for third-party payors, identify the provider who is to
36 make the disclosure; and

37 (e) Identify the patient.

1 (4) Except as provided by this chapter, the signing of an
2 authorization by a patient is not a waiver of any rights a patient has
3 under other statutes, the rules of evidence, or common law.

4 (5) A health care provider shall retain each authorization or
5 revocation in conjunction with any health care information from which
6 disclosures are made. This requirement shall not apply to disclosures
7 to third-party payors.

8 (6) Except for authorizations given pursuant to an agreement with
9 a treatment or monitoring program or disciplinary authority under
10 chapter ((18.72)) 18.71 or 18.130 RCW or to provide information to
11 third-party payors, an authorization may not permit the release of
12 health care information relating to future health care that the patient
13 receives more than ninety days after the authorization was signed.
14 Patients shall be advised of the period of validity of their
15 authorization on the disclosure authorization form. If the
16 authorization does not contain an expiration date, it expires ninety
17 days after it is signed.

18 **Sec. 742.** RCW 70.41.200 and 1993 c 492 s 415 are each amended to
19 read as follows:

20 (1) Every hospital shall maintain a coordinated quality improvement
21 program for the improvement of the quality of health care services
22 rendered to patients and the identification and prevention of medical
23 malpractice. The program shall include at least the following:

24 (a) The establishment of a quality improvement committee with the
25 responsibility to review the services rendered in the hospital, both
26 retrospectively and prospectively, in order to improve the quality of
27 medical care of patients and to prevent medical malpractice. The
28 committee shall oversee and coordinate the quality improvement and
29 medical malpractice prevention program and shall insure that
30 information gathered pursuant to the program is used to review and to
31 revise hospital policies and procedures;

32 (b) A medical staff privileges sanction procedure through which
33 credentials, physical and mental capacity, and competence in delivering
34 health care services are periodically reviewed as part of an evaluation
35 of staff privileges;

36 (c) The periodic review of the credentials, physical and mental
37 capacity, and competence in delivering health care services of all
38 persons who are employed or associated with the hospital;

1 (d) A procedure for the prompt resolution of grievances by patients
2 or their representatives related to accidents, injuries, treatment, and
3 other events that may result in claims of medical malpractice;

4 (e) The maintenance and continuous collection of information
5 concerning the hospital's experience with negative health care outcomes
6 and incidents injurious to patients, patient grievances, professional
7 liability premiums, settlements, awards, costs incurred by the hospital
8 for patient injury prevention, and safety improvement activities;

9 (f) The maintenance of relevant and appropriate information
10 gathered pursuant to (a) through (e) of this subsection concerning
11 individual physicians within the physician's personnel or credential
12 file maintained by the hospital;

13 (g) Education programs dealing with quality improvement, patient
14 safety, injury prevention, staff responsibility to report professional
15 misconduct, the legal aspects of patient care, improved communication
16 with patients, and causes of malpractice claims for staff personnel
17 engaged in patient care activities; and

18 (h) Policies to ensure compliance with the reporting requirements
19 of this section.

20 (2) Any person who, in substantial good faith, provides information
21 to further the purposes of the quality improvement and medical
22 malpractice prevention program or who, in substantial good faith,
23 participates on the quality improvement committee shall not be subject
24 to an action for civil damages or other relief as a result of such
25 activity.

26 (3) Information and documents, including complaints and incident
27 reports, created specifically for, and collected, and maintained by a
28 quality improvement committee are not subject to discovery or
29 introduction into evidence in any civil action, and no person who was
30 in attendance at a meeting of such committee or who participated in the
31 creation, collection, or maintenance of information or documents
32 specifically for the committee shall be permitted or required to
33 testify in any civil action as to the content of such proceedings or
34 the documents and information prepared specifically for the committee.
35 This subsection does not preclude: (a) In any civil action, the
36 discovery of the identity of persons involved in the medical care that
37 is the basis of the civil action whose involvement was independent of
38 any quality improvement activity; (b) in any civil action, the
39 testimony of any person concerning the facts which form the basis for

1 the institution of such proceedings of which the person had personal
2 knowledge acquired independently of such proceedings; (c) in any civil
3 action by a health care provider regarding the restriction or
4 revocation of that individual's clinical or staff privileges,
5 introduction into evidence information collected and maintained by
6 quality improvement committees regarding such health care provider; (d)
7 in any civil action, disclosure of the fact that staff privileges were
8 terminated or restricted, including the specific restrictions imposed,
9 if any and the reasons for the restrictions; or (e) in any civil
10 action, discovery and introduction into evidence of the patient's
11 medical records required by regulation of the department of health to
12 be made regarding the care and treatment received.

13 (4) Each quality improvement committee shall, on at least a
14 semiannual basis, report to the governing board of the hospital in
15 which the committee is located. The report shall review the quality
16 improvement activities conducted by the committee, and any actions
17 taken as a result of those activities.

18 (5) The department of health shall adopt such rules as are deemed
19 appropriate to effectuate the purposes of this section.

20 (6) The medical (~~(disciplinary board)~~) quality assurance commission
21 or the board of osteopathic medicine and surgery, as appropriate, may
22 review and audit the records of committee decisions in which a
23 physician's privileges are terminated or restricted. Each hospital
24 shall produce and make accessible to the commission or board the
25 appropriate records and otherwise facilitate the review and audit.
26 Information so gained shall not be subject to the discovery process and
27 confidentiality shall be respected as required by subsection (3) of
28 this section. Failure of a hospital to comply with this subsection is
29 punishable by a civil penalty not to exceed two hundred fifty dollars.

30 (7) Violation of this section shall not be considered negligence
31 per se.

32 **Sec. 743.** RCW 70.41.210 and 1986 c 300 s 7 are each amended to
33 read as follows:

34 The chief administrator or executive officer of a hospital shall
35 report to the (~~board~~) medical quality assurance commission when a
36 physician's clinical privileges are terminated or are restricted based
37 on a determination, in accordance with an institution's bylaws, that a
38 physician has either committed an act or acts which may constitute

1 unprofessional conduct. The officer shall also report if a physician
2 accepts voluntary termination in order to foreclose or terminate actual
3 or possible hospital action to suspend, restrict, or terminate a
4 physician's clinical privileges. Such a report shall be made within
5 sixty days of the date action was taken by the hospital's peer review
6 committee or the physician's acceptance of voluntary termination or
7 restriction of privileges. Failure of a hospital to comply with this
8 section is punishable by a civil penalty not to exceed two hundred
9 fifty dollars.

10 **Sec. 744.** RCW 70.41.230 and 1993 c 492 s 416 are each amended to
11 read as follows:

12 (1) Prior to granting or renewing clinical privileges or
13 association of any physician or hiring a physician, a hospital or
14 facility approved pursuant to this chapter shall request from the
15 physician and the physician shall provide the following information:

16 (a) The name of any hospital or facility with or at which the
17 physician had or has any association, employment, privileges, or
18 practice;

19 (b) If such association, employment, privilege, or practice was
20 discontinued, the reasons for its discontinuation;

21 (c) Any pending professional medical misconduct proceedings or any
22 pending medical malpractice actions in this state or another state, the
23 substance of the allegations in the proceedings or actions, and any
24 additional information concerning the proceedings or actions as the
25 physician deems appropriate;

26 (d) The substance of the findings in the actions or proceedings and
27 any additional information concerning the actions or proceedings as the
28 physician deems appropriate;

29 (e) A waiver by the physician of any confidentiality provisions
30 concerning the information required to be provided to hospitals
31 pursuant to this subsection; and

32 (f) A verification by the physician that the information provided
33 by the physician is accurate and complete.

34 (2) Prior to granting privileges or association to any physician or
35 hiring a physician, a hospital or facility approved pursuant to this
36 chapter shall request from any hospital with or at which the physician
37 had or has privileges, was associated, or was employed, the following
38 information concerning the physician:

1 (a) Any pending professional medical misconduct proceedings or any
2 pending medical malpractice actions, in this state or another state;

3 (b) Any judgment or settlement of a medical malpractice action and
4 any finding of professional misconduct in this state or another state
5 by a licensing or disciplinary board; and

6 (c) Any information required to be reported by hospitals pursuant
7 to RCW 18.72.265 (as recodified by this act).

8 (3) The medical (~~(disciplinary board)~~) quality assurance commission
9 shall be advised within thirty days of the name of any physician denied
10 staff privileges, association, or employment on the basis of adverse
11 findings under subsection (1) of this section.

12 (4) A hospital or facility that receives a request for information
13 from another hospital or facility pursuant to subsections (1) and (2)
14 of this section shall provide such information concerning the physician
15 in question to the extent such information is known to the hospital or
16 facility receiving such a request, including the reasons for
17 suspension, termination, or curtailment of employment or privileges at
18 the hospital or facility. A hospital, facility, or other person
19 providing such information in good faith is not liable in any civil
20 action for the release of such information.

21 (5) Information and documents, including complaints and incident
22 reports, created specifically for, and collected, and maintained by a
23 quality improvement committee are not subject to discovery or
24 introduction into evidence in any civil action, and no person who was
25 in attendance at a meeting of such committee or who participated in the
26 creation, collection, or maintenance of information or documents
27 specifically for the committee shall be permitted or required to
28 testify in any civil action as to the content of such proceedings or
29 the documents and information prepared specifically for the committee.
30 This subsection does not preclude: (a) In any civil action, the
31 discovery of the identity of persons involved in the medical care that
32 is the basis of the civil action whose involvement was independent of
33 any quality improvement activity; (b) in any civil action, the
34 testimony of any person concerning the facts which form the basis for
35 the institution of such proceedings of which the person had personal
36 knowledge acquired independently of such proceedings; (c) in any civil
37 action by a health care provider regarding the restriction or
38 revocation of that individual's clinical or staff privileges,
39 introduction into evidence information collected and maintained by

1 quality improvement committees regarding such health care provider; (d)
2 in any civil action, disclosure of the fact that staff privileges were
3 terminated or restricted, including the specific restrictions imposed,
4 if any and the reasons for the restrictions; or (e) in any civil
5 action, discovery and introduction into evidence of the patient's
6 medical records required by regulation of the department of health to
7 be made regarding the care and treatment received.

8 (6) Hospitals shall be granted access to information held by the
9 medical (~~(disciplinary board)~~) quality assurance commission and the
10 board of osteopathic medicine and surgery pertinent to decisions of the
11 hospital regarding credentialing and recredentialing of practitioners.

12 (7) Violation of this section shall not be considered negligence
13 per se.

14 **Sec. 745.** RCW 70.127.250 and 1993 c 42 s 10 are each amended to
15 read as follows:

16 (1) In addition to the rules consistent with RCW 70.127.005 adopted
17 under RCW 70.127.120, the department shall adopt rules for home health
18 agencies which address the following:

19 (a) Establishment of case management guidelines for acute and
20 maintenance care patients;

21 (b) Establishment of guidelines for periodic review of the home
22 health care plan of care and plan of treatment by appropriate health
23 care professionals; and

24 (c) Maintenance of written policies regarding the delivery and
25 supervision of patient care and clinical consultation as necessary by
26 appropriate health care professionals.

27 (2) As used in this section:

28 (a) "Acute care" means care provided by a home health agency for
29 patients who are not medically stable or have not attained a
30 satisfactory level of rehabilitation. These patients require frequent
31 monitoring by a health care professional in order to maintain their
32 health status.

33 (b) "Maintenance care" means care provided by home health agencies
34 that is necessary to support an existing level of health and to
35 preserve a patient from further failure or decline.

36 (c) "Home health plan of care" means a written plan of care
37 established by a home health agency by appropriate health care
38 professionals that describes maintenance care to be provided. A

1 patient or his or her representative shall be allowed to participate in
2 the development of the plan of care to the extent practicable.

3 (d) "Home health plan of treatment" means a written plan of care
4 established by a physician licensed under chapter 18.57 or 18.71 RCW,
5 a podiatric physician and surgeon licensed under chapter 18.22 RCW, or
6 an advanced registered nurse practitioner as authorized by the (~~board~~
7 ~~of~~) nursing care quality assurance commission under chapter (~~18.88~~)
8 18.-- RCW (sections 401 through 431 of this act), in consultation with
9 appropriate health care professionals within the agency that describes
10 medically necessary acute care to be provided for treatment of illness
11 or injury.

12 **Sec. 746.** RCW 70.180.030 and 1990 c 271 s 3 are each amended to
13 read as follows:

14 (1) The department, in cooperation with (~~the~~) the University of
15 Washington school of medicine, the state's registered nursing programs,
16 the state's pharmacy programs, and other appropriate public and private
17 agencies and associations, shall develop and keep current a register of
18 physicians, physician assistants, pharmacists, and advanced registered
19 nurse practitioners who are available to practice on a short-term basis
20 in rural communities of the state. The department shall periodically
21 screen individuals on the registry for violations of the Uniform
22 Disciplinary Act as authorized in chapter 18.130 RCW. If a finding of
23 unprofessional conduct has been made by the appropriate disciplinary
24 authority against any individual on the registry, the name of that
25 individual shall be removed from the registry and that person shall be
26 made ineligible for the program. The department shall include a list
27 of back-up physicians and hospitals who can provide support to health
28 care providers in the pool. The register shall be compiled, published,
29 and made available to all rural hospitals, public health departments
30 and districts, rural pharmacies, and other appropriate public and
31 private agencies and associations. The department shall coordinate
32 with existing entities involved in health professional recruitment when
33 developing the registry for the health professional temporary
34 substitute resource pool.

35 (2) Eligible health care professionals are those licensed under
36 chapters 18.57, 18.57A, 18.64, 18.71, and 18.71A RCW and advanced
37 registered nurse practitioners licensed under chapter (~~18.88~~) 18.--
38 RCW (sections 401 through 431 of this act).

1 (3) Participating health care professionals shall receive:

2 (a) Reimbursement for travel to and from the rural community and
3 for lodging at a rate determined under RCW 43.03.050 and 43.03.060;

4 (b) Medical malpractice insurance purchased by the department, or
5 the department may reimburse participants for medical malpractice
6 insurance premium costs for medical liability while providing health
7 care services in the program, if the services provided are not covered
8 by the participant's or local provider's existing medical malpractice
9 insurance; and

10 (c) Information on back-up support from other physicians and
11 hospitals in the area to the extent necessary and available.

12 (4) The department may require rural communities to participate in
13 health professional recruitment programs as a condition for providing
14 a temporary substitute health care professional if the community does
15 not have adequate permanent health care personnel. To the extent
16 deemed appropriate and subject to funding, the department may also
17 require communities to participate in other programs or projects, such
18 as the rural health system project authorized in chapter 70.175 RCW,
19 that are designed to assist communities to reorganize the delivery of
20 rural health care services.

21 (5) The department may require a community match for assistance
22 provided in subsection (3) of this section if it determines that
23 adequate community resources exist.

24 (6) The maximum continuous period of time a participating health
25 professional may serve in a community is ninety days. The department
26 may modify or waive this limitation should it determine that the health
27 and safety of the community warrants a waiver or modification. The
28 community shall be responsible for all salary expenses of participating
29 health professionals.

30 **Sec. 747.** RCW 71.05.210 and 1991 c 364 s 11 and 1991 c 105 s 4 are
31 each reenacted and amended to read as follows:

32 Each person involuntarily admitted to an evaluation and treatment
33 facility shall, within twenty-four hours of his or her admission, be
34 examined and evaluated by a licensed physician who may be assisted by
35 a physician assistant according to chapter 18.71A RCW or ((a)) an
36 advanced registered nurse practitioner according to chapter ((18.88))
37 18.-- RCW (sections 401 through 431 of this act) and a mental health
38 professional as defined in this chapter, and shall receive such

1 treatment and care as his or her condition requires including treatment
2 on an outpatient basis for the period that he or she is detained,
3 except that, beginning twenty-four hours prior to a court proceeding,
4 the individual may refuse all but emergency life-saving treatment, and
5 the individual shall be informed at an appropriate time of his or her
6 right to such refusal of treatment. Such person shall be detained up
7 to seventy-two hours, if, in the opinion of the professional person in
8 charge of the facility, or his or her professional designee, the person
9 presents a likelihood of serious harm to himself or herself or others,
10 or is gravely disabled. A person who has been detained for seventy-two
11 hours shall no later than the end of such period be released, unless
12 referred for further care on a voluntary basis, or detained pursuant to
13 court order for further treatment as provided in this chapter.

14 If, after examination and evaluation, the licensed physician and
15 mental health professional determine that the initial needs of the
16 person would be better served by placement in a chemical dependency
17 treatment facility, then the person shall be referred to an approved
18 treatment program defined under RCW 70.96A.020.

19 An evaluation and treatment center admitting any person pursuant to
20 this chapter whose physical condition reveals the need for
21 hospitalization shall assure that such person is transferred to an
22 appropriate hospital for treatment. Notice of such fact shall be given
23 to the court, the designated attorney, and the designated county mental
24 health professional and the court shall order such continuance in
25 proceedings under this chapter as may be necessary, but in no event may
26 this continuance be more than fourteen days.

27 **Sec. 748.** RCW 71.24.025 and 1991 c 306 s 2 are each amended to
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

31 (1) "Acutely mentally ill" means a condition which is limited to a
32 short-term severe crisis episode of:

33 (a) A mental disorder as defined in RCW 71.05.020(2) or, in the
34 case of a child, as defined in RCW 71.34.020(12);

35 (b) Being gravely disabled as defined in RCW 71.05.020(1) or, in
36 the case of a child, as defined in RCW 71.34.020(8); or

1 (c) Presenting a likelihood of serious harm as defined in RCW
2 71.05.020(3) or, in the case of a child, as defined in RCW
3 71.34.020(11).

4 (2) "Available resources" means those funds which shall be
5 appropriated under this chapter by the legislature during any biennium
6 for the purpose of providing community mental health programs under RCW
7 71.24.045. When regional support networks are established or after
8 July 1, 1995, "available resources" means federal funds, except those
9 provided according to Title XIX of the Social Security Act, and state
10 funds appropriated under this chapter or chapter 71.05 RCW by the
11 legislature during any biennium for the purpose of providing
12 residential services, resource management services, community support
13 services, and other mental health services. This does not include
14 funds appropriated for the purpose of operating and administering the
15 state psychiatric hospitals, except as negotiated according to RCW
16 71.24.300(1)(d).

17 (3) "Licensed service provider" means an entity licensed according
18 to this chapter or chapter 71.05 RCW that meets state minimum standards
19 or individuals licensed under chapter 18.57, 18.71, 18.83, or (~~18.88~~
20 ~~RCW~~) 18.-- RCW (sections 401 through 431 of this act), as it applies
21 to registered nurses and advanced registered nurse practitioners.

22 (4) "Child" means a person under the age of eighteen years.

23 (5) "Chronically mentally ill adult" means an adult who has a
24 mental disorder and meets at least one of the following criteria:

25 (a) Has undergone two or more episodes of hospital care for a
26 mental disorder within the preceding two years; or

27 (b) Has experienced a continuous psychiatric hospitalization or
28 residential treatment exceeding six months' duration within the
29 preceding year; or

30 (c) Has been unable to engage in any substantial gainful activity
31 by reason of any mental disorder which has lasted for a continuous
32 period of not less than twelve months. "Substantial gainful activity"
33 shall be defined by the department by rule consistent with Public Law
34 92-603, as amended.

35 (6) "Severely emotionally disturbed child" means an infant or child
36 who has been determined by the regional support network to be
37 experiencing a mental disorder as defined in chapter 71.34 RCW,
38 including those mental disorders that result in a behavioral or conduct
39 disorder, that is clearly interfering with the child's functioning in

1 family or school or with peers and who meets at least one of the
2 following criteria:

3 (a) Has undergone inpatient treatment or placement outside of the
4 home related to a mental disorder within the last two years;

5 (b) Has undergone involuntary treatment under chapter 71.34 RCW
6 within the last two years;

7 (c) Is currently served by at least one of the following child-
8 serving systems: Juvenile justice, child-protection/welfare, special
9 education, or developmental disabilities;

10 (d) Is at risk of escalating maladjustment due to:

11 (i) Chronic family dysfunction involving a mentally ill or
12 inadequate caretaker;

13 (ii) Changes in custodial adult;

14 (iii) Going to, residing in, or returning from any placement
15 outside of the home, for example, psychiatric hospital, short-term
16 inpatient, residential treatment, group or foster home, or a
17 correctional facility;

18 (iv) Subject to repeated physical abuse or neglect;

19 (v) Drug or alcohol abuse; or

20 (vi) Homelessness.

21 (7) "Community mental health program" means all mental health
22 services established by a county authority. After July 1, 1995, or
23 when the regional support networks are established, "community mental
24 health program" means all activities or programs using available
25 resources.

26 (8) "Community support services" means services for acutely
27 mentally ill persons, chronically mentally ill adults, and severely
28 emotionally disturbed children and includes: (a) Discharge planning
29 for clients leaving state mental hospitals, other acute care inpatient
30 facilities, inpatient psychiatric facilities for persons under twenty-
31 one years of age, and other children's mental health residential
32 treatment facilities; (b) sufficient contacts with clients, families,
33 schools, or significant others to provide for an effective program of
34 community maintenance; and (c) medication monitoring. After July 1,
35 1995, or when regional support networks are established, for adults and
36 children "community support services" means services authorized,
37 planned, and coordinated through resource management services
38 including, at least, assessment, diagnosis, emergency crisis
39 intervention available twenty-four hours, seven days a week,

1 prescreening determinations for mentally ill persons being considered
2 for placement in nursing homes as required by federal law, screening
3 for patients being considered for admission to residential services,
4 diagnosis and treatment for acutely mentally ill and severely
5 emotionally disturbed children discovered under screening through the
6 federal Title XIX early and periodic screening, diagnosis, and
7 treatment program, investigation, legal, and other nonresidential
8 services under chapter 71.05 RCW, case management services, psychiatric
9 treatment including medication supervision, counseling, psychotherapy,
10 assuring transfer of relevant patient information between service
11 providers, other services determined by regional support networks, and
12 maintenance of a patient tracking system for chronically mentally ill
13 adults and severely emotionally disturbed children.

14 (9) "County authority" means the board of county commissioners,
15 county council, or county executive having authority to establish a
16 community mental health program, or two or more of the county
17 authorities specified in this subsection which have entered into an
18 agreement to provide a community mental health program.

19 (10) "Department" means the department of social and health
20 services.

21 (11) "Mental health services" means community services pursuant to
22 RCW 71.24.035(5)(b) and other services provided by the state for the
23 mentally ill. When regional support networks are established, or after
24 July 1, 1995, "mental health services" shall include all services
25 provided by regional support networks.

26 (12) "Mentally ill persons" and "the mentally ill" mean persons and
27 conditions defined in subsections (1), (5), (6), and (16) of this
28 section.

29 (13) "Regional support network" means a county authority or group
30 of county authorities recognized by the secretary that enter into joint
31 operating agreements to contract with the secretary pursuant to this
32 chapter.

33 (14) "Residential services" means a facility or distinct part
34 thereof which provides food and shelter, and may include treatment
35 services.

36 When regional support networks are established, or after July 1,
37 1995, for adults and children "residential services" means a complete
38 range of residences and supports authorized by resource management
39 services and which may involve a facility, a distinct part thereof, or

1 services which support community living, for acutely mentally ill
2 persons, chronically mentally ill adults, severely emotionally
3 disturbed children, or seriously disturbed adults determined by the
4 regional support network to be at risk of becoming acutely or
5 chronically mentally ill. The services shall include at least
6 evaluation and treatment services as defined in chapter 71.05 RCW,
7 acute crisis respite care, long-term adaptive and rehabilitative care,
8 and supervised and supported living services, and shall also include
9 any residential services developed to service mentally ill persons in
10 nursing homes. Residential services for children in out-of-home
11 placements related to their mental disorder shall not include the costs
12 of food and shelter, except for children's long-term residential
13 facilities existing prior to January 1, 1991.

14 (15) "Resource management services" mean the planning,
15 coordination, and authorization of residential services and community
16 support services administered pursuant to an individual service plan
17 for acutely mentally ill adults and children, chronically mentally ill
18 adults, severely emotionally disturbed children, or seriously disturbed
19 adults determined by the regional support network at their sole
20 discretion to be at risk of becoming acutely or chronically mentally
21 ill. Such planning, coordination, and authorization shall include
22 mental health screening for children eligible under the federal Title
23 XIX early and periodic screening, diagnosis, and treatment program.
24 Resource management services include seven day a week, twenty-four hour
25 a day availability of information regarding mentally ill adults' and
26 children's enrollment in services and their individual service plan to
27 county-designated mental health professionals, evaluation and treatment
28 facilities, and others as determined by the regional support network.

29 (16) "Seriously disturbed person" means a person who:

30 (a) Is gravely disabled or presents a likelihood of serious harm to
31 oneself or others as a result of a mental disorder as defined in
32 chapter 71.05 RCW;

33 (b) Has been on conditional release status at some time during the
34 preceding two years from an evaluation and treatment facility or a
35 state mental health hospital;

36 (c) Has a mental disorder which causes major impairment in several
37 areas of daily living;

38 (d) Exhibits suicidal preoccupation or attempts; or

1 (e) Is a child diagnosed by a mental health professional, as
2 defined in RCW 71.05.020, as experiencing a mental disorder which is
3 clearly interfering with the child's functioning in family or school or
4 with peers or is clearly interfering with the child's personality
5 development and learning.

6 (17) "Secretary" means the secretary of social and health services.

7 (18) "State minimum standards" means: (a) Minimum requirements for
8 delivery of mental health services as established by departmental rules
9 and necessary to implement this chapter, including but not limited to
10 licensing service providers and services; (b) minimum service
11 requirements for licensed service providers for the provision of mental
12 health services as established by departmental rules pursuant to
13 chapter 34.05 RCW as necessary to implement this chapter, including,
14 but not limited to: Qualifications for staff providing services
15 directly to mentally ill persons; the intended result of each service;
16 and the rights and responsibilities of persons receiving mental health
17 services pursuant to this chapter; (c) minimum requirements for
18 residential services as established by the department in rule based on
19 clients' functional abilities and not solely on their diagnoses,
20 limited to health and safety, staff qualifications, and program
21 outcomes. Minimum requirements for residential services are those
22 developed in collaboration with consumers, families, counties,
23 regulators, and residential providers serving the mentally ill.
24 Minimum requirements encourage the development of broad-range
25 residential programs, including integrated housing and cross-systems
26 programs where appropriate, and do not unnecessarily restrict
27 programming flexibility; and (d) minimum standards for community
28 support services and resource management services, including at least
29 qualifications for resource management services, client tracking
30 systems, and the transfer of patient information between service
31 providers.

32 **Sec. 749.** RCW 74.09.290 and 1990 c 100 s 5 are each amended to
33 read as follows:

34 The secretary of the department of social and health services or
35 his authorized representative shall have the authority to:

36 (1) Conduct audits and investigations of providers of medical and
37 other services furnished pursuant to this chapter, except that the
38 Washington state medical (~~disciplinary board~~) quality assurance

1 commission shall generally serve in an advisory capacity to the
2 secretary in the conduct of audits or investigations of physicians.
3 Any overpayment discovered as a result of an audit of a provider under
4 this authority shall be offset by any underpayments discovered in that
5 same audit sample. In order to determine the provider's actual, usual,
6 customary, or prevailing charges, the secretary may examine such random
7 representative records as necessary to show accounts billed and
8 accounts received except that in the conduct of such examinations,
9 patient names, other than public assistance applicants or recipients,
10 shall not be noted, copied, or otherwise made available to the
11 department. In order to verify costs incurred by the department for
12 treatment of public assistance applicants or recipients, the secretary
13 may examine patient records or portions thereof in connection with
14 services to such applicants or recipients rendered by a health care
15 provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200,
16 18.83.110, or any other statute which may make or purport to make such
17 records privileged or confidential: PROVIDED, That no original patient
18 records shall be removed from the premises of the health care provider,
19 and that the disclosure of any records or information by the department
20 of social and health services is prohibited and shall be punishable as
21 a class C felony according to chapter 9A.20 RCW, unless such disclosure
22 is directly connected to the official purpose for which the records or
23 information were obtained: PROVIDED FURTHER, That the disclosure of
24 patient information as required under this section shall not subject
25 any physician or other health services provider to any liability for
26 breach of any confidential relationship between the provider and the
27 patient, but no evidence resulting from such disclosure may be used in
28 any civil, administrative, or criminal proceeding against the patient
29 unless a waiver of the applicable evidentiary privilege is obtained:
30 PROVIDED FURTHER, That the secretary shall destroy all copies of
31 patient medical records in their possession upon completion of the
32 audit, investigation or proceedings;

33 (2) Approve or deny applications to participate as a provider of
34 services furnished pursuant to this chapter;

35 (3) Terminate or suspend eligibility to participate as a provider
36 of services furnished pursuant to this chapter; and

37 (4) Adopt, promulgate, amend, and (~~repeal~~) repeal administrative
38 rules (~~and regulations~~), in accordance with the Administrative

1 Procedure Act, chapter 34.05 RCW, to carry out the policies and
2 purposes of RCW 74.09.200 through 74.09.290.

3 **Sec. 750.** RCW 74.42.010 and 1993 c 508 s 4 are each amended to
4 read as follows:

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

7 (1) "Department" means the department of social and health services
8 and the department's employees.

9 (2) "Facility" refers to a nursing home as defined in RCW
10 18.51.010.

11 (3) "Licensed practical nurse" means a person licensed to practice
12 practical nursing under chapter (~~18.78~~) 18.-- RCW (sections 401
13 through 431 of this act).

14 (4) "Medicaid" means Title XIX of the Social Security Act enacted
15 by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79
16 Stat. 343), as amended.

17 (5) "Nursing care" means that care provided by a registered nurse,
18 an advanced registered nurse practitioner, a licensed practical nurse,
19 or a nursing assistant in the regular performance of their duties.

20 (6) "Qualified therapist" means:

21 (a) An activities specialist who has specialized education,
22 training, or experience specified by the department.

23 (b) An audiologist who is eligible for a certificate of clinical
24 competence in audiology or who has the equivalent education and
25 clinical experience.

26 (c) A mental health professional as defined in chapter 71.05 RCW.

27 (d) A mental retardation professional who is a qualified therapist
28 or a therapist approved by the department and has specialized training
29 or one year experience in treating or working with the mentally
30 retarded or developmentally disabled.

31 (e) An occupational therapist who is a graduate of a program in
32 occupational therapy or who has equivalent education or training.

33 (f) A physical therapist as defined in chapter 18.74 RCW.

34 (g) A social worker who is a graduate of a school of social work.

35 (h) A speech pathologist who is eligible for a certificate of
36 clinical competence in speech pathology or who has equivalent education
37 and clinical experience.

1 (7) "Registered nurse" means a person (~~(practicing)~~) licensed to
2 practice registered nursing under chapter (~~(18.88)~~) 18.-- RCW (sections
3 401 through 431 of this act).

4 (8) "Resident" means an individual residing in a nursing home, as
5 defined in RCW 18.51.010.

6 (9) "Physician(~~(s)~~) assistant" means a person practicing pursuant
7 to chapters 18.57A and 18.71A RCW.

8 (10) "Nurse practitioner" means a person (~~(practicing such expanded~~
9 ~~acts of nursing as are authorized by the board of nursing pursuant to~~
10 ~~RCW 18.88.030)~~) licensed to practice advanced registered nursing under
11 chapter 18.-- RCW (sections 401 through 431 of this act).

12 **Sec. 751.** RCW 74.42.230 and 1982 c 120 s 2 are each amended to
13 read as follows:

14 (1) The resident's attending or staff physician or authorized
15 practitioner approved by the attending physician shall order all
16 medications for the resident. The order may be oral or written and
17 shall be limited by time. An "authorized practitioner," as used in
18 this section, is a registered nurse under chapter (~~(18.88)~~) 18.-- RCW
19 (sections 401 through 431 of this act) when authorized by the (~~(board~~
20 ~~of)~~) nursing care quality assurance commission, an osteopathic
21 physician(~~(s)~~) assistant under chapter 18.57A RCW when authorized by
22 the committee of osteopathic examiners, or a physician(~~(s)~~) assistant
23 under chapter 18.71A RCW when authorized by the (~~(board of)~~) medical
24 (~~(examiners)~~) quality assurance commission.

25 (2) An oral order shall be given only to a licensed nurse,
26 pharmacist, or another physician. The oral order shall be recorded and
27 signed immediately by the person receiving the order. The attending
28 physician shall sign the record of the oral order in a manner
29 consistent with good medical practice.

30 **Sec. 752.** RCW 74.42.240 and 1989 c 372 s 5 are each amended to
31 read as follows:

32 (1) No staff member may administer any medication to a resident
33 unless the staff member is licensed to administer medication:
34 PROVIDED, That nothing herein shall be construed as prohibiting
35 graduate nurses or student nurses from administering medications when
36 permitted to do so under chapter (~~(18.88 or 18.78)~~) 18.-- RCW (sections
37 401 through 431 of this act) and rules adopted thereunder.

1 (2) The facility may only allow a resident to give himself or
2 herself medication with the attending physician's permission.

3 (3) Medication shall only be administered to or used by the
4 resident for whom it is ordered.

5 **Sec. 753.** RCW 74.42.380 and 1989 c 372 s 6 are each amended to
6 read as follows:

7 (1) The facility shall have a director of nursing services. The
8 director of nursing services shall be a registered nurse or an advanced
9 registered nurse practitioner.

10 (2) The director of nursing services is responsible for:

11 (a) Coordinating the plan of care for each resident;

12 (b) Permitting only licensed personnel to administer medications:
13 PROVIDED, That nothing herein shall be construed as prohibiting
14 graduate nurses or student nurses from administering medications when
15 permitted to do so under chapter ~~((18.88 or 18.78))~~ 18.-- RCW ~~(sections~~
16 401 through 431 of this act) and rules ~~((promulgated pursuant thereto))~~
17 adopted under it: PROVIDED FURTHER, That nothing herein shall be
18 construed as prohibiting persons certified under chapter 18.135 RCW
19 from practicing pursuant to the delegation and supervision requirements
20 of chapter 18.135 RCW and rules ~~((promulgated pursuant thereto))~~
21 adopted under it; and

22 (c) Insuring that the licensed practical nurses ~~((comply with~~
23 ~~chapter 18.78 RCW,))~~ and the registered nurses comply with chapter
24 ~~((18.88))~~ 18.-- RCW ~~(sections 401 through 431 of this act),~~ and persons
25 certified under chapter 18.135 RCW comply with the provisions of that
26 chapter and rules ~~((promulgated pursuant thereto))~~ adopted under it.

27 **DISABILITY ACCOMMODATION REVOLVING FUND ADVISORY REVIEW BOARD**

28 **Sec. 801.** RCW 41.04.395 and 1987 c 9 s 2 are each amended to read
29 as follows:

30 (1) The disability accommodation revolving fund is created in the
31 custody of the state treasurer. Disbursements from the fund shall be
32 on authorization of the director of the department of personnel or the
33 director's designee. The fund is subject to the allotment procedure
34 provided under chapter 43.88 RCW, but no appropriation is required for
35 disbursements. The fund shall be used exclusively by state agencies to

1 accommodate the unanticipated job site or equipment needs of persons of
2 disability in state employ.

3 (2) The director of the department of personnel shall (~~appoint an~~
4 ~~advisory review board to review and approve~~) consult with the
5 governor's committee on disability issues and employment regarding
6 requests for disbursements from the disability accommodation revolving
7 fund. The (~~review board~~) department shall establish application
8 procedures, adopt criteria, and provide technical assistance to users
9 of the fund.

10 (3) Agencies that receive moneys from the disability accommodation
11 revolving fund shall return to the fund the amount received from the
12 fund by no later than the end of the first month of the following
13 fiscal biennium.

14 **MOTOR VEHICLE ADVISORY COMMITTEE**

15 **Sec. 802.** RCW 43.19.558 and 1989 c 57 s 5 are each amended to read
16 as follows:

17 The motor transport account shall be used to pay the costs of
18 carrying out the programs provided for in RCW 43.19.550 through
19 43.19.558, unless otherwise specified by law. The director of general
20 administration may recover the costs of the programs by billing
21 agencies that own and operate passenger motor vehicles on the basis of
22 a per vehicle charge. The director of general administration, after
23 consultation with affected state agencies (~~and recommendation of the~~
24 ~~motor vehicle advisory committee~~), shall establish the rates. All
25 rates shall be approved by the director of financial management. The
26 proceeds generated by these charges shall be used solely to carry out
27 RCW 43.19.550 through 43.19.558.

28 **Sec. 803.** RCW 43.19.554 and 1990 c 75 s 1 are each amended to read
29 as follows:

30 (1) To carry out the purposes of RCW 43.19.550 through 43.19.558
31 and 46.08.065, the director of general administration has the following
32 powers and duties:

33 (a) To develop and implement a state-wide information system to
34 collect, analyze, and disseminate data on the acquisition, operation,
35 management, maintenance, repair, disposal, and replacement of all
36 state-owned passenger motor vehicles. State agencies shall provide the

1 department with such data as is necessary to implement and maintain the
2 system. The department shall provide state agencies with information
3 and reports designed to assist them in achieving efficient and cost-
4 effective management of their passenger motor vehicle operations.

5 (b) To survey state agencies to identify the location, ownership,
6 and condition of all state-owned fuel storage tanks.

7 (c) In cooperation with the department of ecology and other public
8 agencies, to prepare a plan and funding proposal for the inspection and
9 repair or replacement of state-owned fuel storage tanks, and for the
10 clean-up of fuel storage sites where leakage has occurred. The plan
11 and funding proposal shall be submitted to the governor no later than
12 December 1, 1989.

13 (d) To develop and implement a state-wide motor vehicle fuel
14 purchase, distribution, and accounting system to be used by all state
15 agencies and their employees. The director may exempt agencies from
16 participation in the system if the director determines that
17 participation interferes with the statutory duties of the agency.

18 (e) To establish minimum standards and requirements for the content
19 and frequency of safe driving instruction for state employees operating
20 state-owned passenger motor vehicles, which shall include consideration
21 of employee driving records. In carrying out this requirement, the
22 department shall consult with other agencies that have expertise in
23 this area.

24 (f) To develop a schedule, after consultation with (~~the state~~
25 ~~motor vehicle advisory committee and~~) affected state agencies, for
26 state employees to participate in safe driving instruction.

27 (g) To require all state employees to provide proof of a driver's
28 license recognized as valid under Washington state law prior to
29 operating a state-owned passenger vehicle.

30 (h) To develop standards for the efficient and economical
31 replacement of all categories of passenger motor vehicles used by state
32 agencies and provide those standards to state agencies and the office
33 of financial management.

34 (i) To develop and implement a uniform system and standards to be
35 used for the marking of passenger motor vehicles as state-owned
36 vehicles as provided for in RCW 46.08.065. The system shall be
37 designed to enhance the resale value of passenger motor vehicles, yet
38 ensure that the vehicles are clearly identified as property of the
39 state.

1 (j) To develop and implement other programs to improve the
2 performance, efficiency, and cost-effectiveness of passenger motor
3 vehicles owned and operated by state agencies.

4 (k) To consult with state agencies and institutions of higher
5 education in carrying out RCW 43.19.550 through 43.19.558.

6 (2) The director shall establish an operational unit within the
7 department to carry out subsection (1) of this section. The director
8 shall employ such personnel as are necessary to carry out RCW 43.19.550
9 through 43.19.558. Not more than three employees within the unit may
10 be exempt from chapter 41.06 RCW.

11 (3) No later than December 31, 1992, the director shall report to
12 the governor and appropriate standing committees of the legislature on
13 the implementation of programs prescribed by this section, any cost
14 savings and efficiencies realized by their implementation, and
15 recommendations for statutory changes.

16 **SOLID WASTE PLAN ADVISORY COMMITTEE**

17 NEW SECTION. **Sec. 804.** The director of ecology shall abolish the
18 solid waste plan advisory committee effective July 1, 1994.

19 **POLLUTION LIABILITY INSURANCE PROGRAM TECHNICAL ADVISORY COMMITTEE**

20 **Sec. 805.** RCW 70.148.030 and 1990 c 64 s 4 are each amended to
21 read as follows:

22 (1) The Washington pollution liability insurance program is created
23 as an independent agency of the state. The administrative head and
24 appointing authority of the program shall be the director who shall be
25 appointed by the governor, with the consent of the senate, and shall
26 serve at the pleasure of the governor. The salary for this office
27 shall be set by the governor pursuant to RCW 43.03.040. The director
28 shall appoint a deputy director. The director, deputy director, and up
29 to three other employees are exempt from the civil service law, chapter
30 41.06 RCW.

31 (2) The director shall employ such other staff as are necessary to
32 fulfill the responsibilities and duties of the director. The staff is
33 subject to the civil service law, chapter 41.06 RCW. In addition, the
34 director may contract with third parties for services necessary to
35 carry out its activities where this will promote economy, avoid

1 duplication of effort, and make best use of available expertise. To
2 the extent necessary to protect the state from unintended liability and
3 ensure quality program and contract design, the director shall contract
4 with an organization or organizations with demonstrated experience and
5 ability in managing and designing pollution liability insurance and
6 with an organization or organizations with demonstrated experience and
7 ability in managing and designing pollution liability reinsurance. The
8 director shall enter into such contracts after competitive bid but need
9 not select the lowest bid. Any such contractor or consultant is
10 prohibited from releasing, publishing, or otherwise using any
11 information made available to it under its contractual responsibility
12 without specific permission of the program director. The director may
13 call upon other agencies of the state to provide technical support and
14 available information as necessary to assist the director in meeting
15 the director's responsibilities under this chapter. Agencies shall
16 supply this support and information as promptly as circumstances
17 permit.

18 ~~(3) ((The governor shall appoint a standing technical advisory~~
19 ~~committee that is representative of the public, the petroleum marketing~~
20 ~~industry, business and local government owners of underground storage~~
21 ~~tanks, and insurance professionals. Individuals appointed to the~~
22 ~~technical advisory committee shall serve at the pleasure of the~~
23 ~~governor and without compensation for their services as members, but~~
24 ~~may be reimbursed for their travel expenses in accordance with RCW~~
25 ~~43.03.050 and 43.03.060.~~

26 ~~(4) A member of the technical advisory committee of the program is~~
27 ~~not civilly liable for any act or omission in the course and scope of~~
28 ~~his or her official capacity unless the act or omission constitutes~~
29 ~~gross negligence.)) The director may appoint ad hoc technical advisory
30 committees to obtain expertise necessary to fulfill the purposes of
31 this chapter.~~

32 **OFFICE OF RURAL HEALTH ADVISORY COMMITTEE**

33 **Sec. 806.** RCW 70.175.030 and 1989 1st ex.s. c 9 s 703 are each
34 amended to read as follows:

35 (1) The department shall establish the Washington rural health
36 system project to provide financial and technical assistance to
37 participants. The goal of the project is to help assure access to

1 affordable health care services to citizens in the rural areas of
2 Washington state.

3 (2) Administrative costs necessary to implement this project shall
4 be kept at a minimum to insure the maximum availability of funds for
5 participants.

6 (3) (~~The secretary may appoint such technical or advisory~~
7 ~~committees as he or she deems necessary consistent with the provisions~~
8 ~~of RCW 43.70.040. In appointing an advisory committee the secretary~~
9 ~~should assure representation by health care professionals, health care~~
10 ~~providers, and those directly involved in the purchase, provision, or~~
11 ~~delivery of health care services as well as consumers, rural community~~
12 ~~leaders, and those knowledgeable of the issues involved with health~~
13 ~~care public policy. Individuals appointed to any technical advisory~~
14 ~~committee shall serve without compensation for their services as~~
15 ~~members, but may be reimbursed for their travel expenses pursuant to~~
16 ~~RCW 43.03.050 and 43.03.060.~~

17 (4)) The secretary may contract with third parties for services
18 necessary to carry out activities to implement this chapter where this
19 will promote economy, avoid duplication of effort, and make the best
20 use of available expertise.

21 ((+5)) (4) The secretary may apply for, receive, and accept gifts
22 and other payments, including property and service, from any
23 governmental or other public or private entity or person, and may make
24 arrangements as to the use of these receipts, including the undertaking
25 of special studies and other projects related to the delivery of health
26 care in rural areas.

27 ((+6)) (5) In designing and implementing the project the secretary
28 shall consider the report of the Washington rural health care
29 commission established under chapter 207, Laws of 1988. Nothing in
30 this chapter requires the secretary to follow any specific
31 recommendation contained in that report except as it may also be
32 included in this chapter.

33 FISHERIES ADVISORY REVIEW BOARDS

34 **Sec. 807.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 240 s 27 are
35 each reenacted and amended to read as follows:

36 (1) The director shall appoint three-member advisory review boards
37 to hear cases as provided in RCW 75.30.060. Members shall be from:

1 (a) (~~The salmon charter boat fishing industry in cases involving~~
2 ~~salmon charter licenses or angler permits;~~
3 (b) ~~The commercial salmon fishing industry in cases involving~~
4 ~~commercial salmon fishery licenses;~~
5 (c)) The commercial crab fishing industry in cases involving
6 Dungeness crab--Puget Sound fishery licenses;
7 (~~(d)~~) (b) The commercial herring fishery in cases involving
8 herring fishery licenses;
9 (~~(e) The commercial Puget Sound whiting fishery in cases involving~~
10 ~~whiting--Puget Sound fishery licenses;~~
11 (~~(f)~~) (c) The commercial sea urchin fishery in cases involving sea
12 urchin dive fishery licenses;
13 (~~(g)~~) (d) The commercial sea cucumber fishery in cases involving
14 sea cucumber dive fishery licenses; and
15 (~~(h)~~) (e) The commercial ocean pink shrimp industry (Pandalus
16 jordani) in cases involving ocean pink shrimp delivery licenses.
17 (2) Members shall serve at the discretion of the director and shall
18 be reimbursed for travel expenses as provided in RCW 43.03.050,
19 43.03.060, and 43.03.065.

20 **FISHERIES REGIONAL ADVISORY COMMITTEES**

21 NEW SECTION. Sec. 808. A new section is added to chapter 75.30
22 RCW to read as follows:
23 The director of the department of fish and wildlife shall abolish
24 the department's regional advisory committees, effective July 1, 1994.

25 **OIL AND GAS CONSERVATION COMMITTEE**

26 **Sec. 809.** RCW 78.52.010 and 1983 c 253 s 2 are each amended to
27 read as follows:
28 For the purposes of this chapter, unless the text otherwise
29 requires, the following terms shall have the following meanings:
30 (1) "Certificate of clearance" means a permit prescribed by the
31 (~~(committee))~~ department for the transportation or the delivery of oil,
32 gas, or product.
33 (2) "~~(Committee))~~ Department" means the (~~(oil and gas conservation~~
34 ~~committee))~~ department of natural resources.

1 (3) "Development unit" means the maximum area of a pool which may
2 be drained efficiently and economically by one well.

3 (4) "Division order" means an instrument showing percentage of
4 royalty or rental divisions among royalty owners.

5 (5) "Fair and reasonable share of the production" means, as to each
6 separately-owned tract or combination of tracts, that part of the
7 authorized production from a pool that is substantially in the
8 proportion that the amount of recoverable oil or gas under the
9 development unit of that separately-owned tract or tracts bears to the
10 recoverable oil or gas or both in the total of the development units in
11 the pool.

12 (6) "Field" means the general area which is underlaid by at least
13 one pool and includes the underground reservoir or reservoirs
14 containing oil or gas, or both. The words "field" and "pool" mean the
15 same thing when only one underground reservoir is involved; however,
16 "field," unlike "pool," may relate to two or more pools.

17 (7) "Gas" means all natural gas, all gaseous substances, and all
18 other fluid or gaseous hydrocarbons not defined as oil in subsection
19 (12) of this section, including but not limited to wet gas, dry gas,
20 residue gas, condensate, and distillate, as those terms are generally
21 understood in the petroleum industry.

22 (8) "Illegal oil" or "illegal gas" means oil or gas that has been
23 produced from any well within the state in violation of this chapter or
24 any rule or order of the ((committee)) department.

25 (9) "Illegal product" means any product derived in whole or part
26 from illegal oil or illegal gas.

27 (10) "Interested person" means a person with an ownership, basic
28 royalty, or leasehold interest in oil or gas within an existing or
29 proposed development unit or unitized pool.

30 (11) "Lessee" means the lessee under an oil and gas lease, or the
31 owner of any land or mineral rights who has the right to conduct or
32 carry on any oil and gas development, exploration and operation
33 thereon, or any person so operating for himself, herself, or others.

34 (12) "Oil" means crude petroleum, oil, and all hydrocarbons,
35 regardless of gravity, that are in the liquid phase in the original
36 reservoir conditions and are produced and recovered at the wellhead in
37 liquid form.

38 (13) "Operator" means the person who operates a well or unit or who
39 has been designated or accepted by the owners to operate the well or

1 unit, and who is responsible for compliance with the ((committee's))
2 department's rules and policies.

3 (14) "Owner" means the person who has the right to develop,
4 operate, drill into, and produce from a pool and to appropriate the oil
5 or gas that he or she produces therefrom, either for that person or for
6 that person and others.

7 (15) "Person" means any natural person, corporation, association,
8 partnership, receiver, trustee, executor, administrator, guardian,
9 fiduciary, or representative of any kind and includes any governmental
10 or political subdivision or any agency thereof.

11 (16) "Pool" means an underground reservoir containing a common
12 accumulation of oil or gas, or both. Each zone of a structure which is
13 completely separated from any other zone in the same structure such
14 that the accumulations of oil or gas are not common with each other is
15 considered a separate pool and is covered by the term "pool" as used in
16 this chapter.

17 (17) "Pooling" means the integration or combination of two or more
18 tracts into an area sufficient to constitute a development unit of the
19 size for one well as prescribed by the ((committee)) department.

20 (18) "Product" means any commodity made from oil or gas.

21 (19) "Protect correlative rights" means that the action or
22 regulation by the ((committee)) department should afford a reasonable
23 opportunity to each person entitled thereto to recover or receive
24 without causing waste his or her fair and reasonable share of the oil
25 and gas in this tract or tracts or its equivalent.

26 (20) "Royalty" means a right to or interest in oil or gas or the
27 value from or attributable to production, other than the right or
28 interest of a lessee, owner, or operator, as defined herein. Royalty
29 includes, but is not limited to the basic royalty in a lease,
30 overriding royalty, and production payments. Any such interest may be
31 referred to in this chapter as "royalty" or "royalty interest." As
32 used in this chapter "basic royalty" means the royalty reserved in a
33 lease. "Royalty owner" means a person who owns a royalty interest.

34 (21) "Supervisor" means the state oil and gas supervisor.

35 (22) "Unitization" means the operation of all or part of a field or
36 reservoir as a single entity for operating purposes.

37 (23) "Waste" in addition to its ordinary meaning, means and
38 includes:

1 (a) "Physical waste" as that term is generally understood in the
2 petroleum industry;

3 (b) The inefficient, excessive, or improper use of, or unnecessary
4 dissipation of, reservoir energy, and the locating, spacing, drilling,
5 equipping, operating, or producing of any oil or gas well in a manner
6 which results or is probable to result in reducing the quantity of oil
7 or gas to be recovered from any pool in this state under operations
8 conducted in accordance with prudent and proper practices or that
9 causes or tends to cause unnecessary wells to be drilled;

10 (c) The inefficient above-ground storage of oil, and the locating,
11 spacing, drilling, equipping, operating, or producing of any oil or gas
12 well in a manner causing or tending to cause unnecessary or excessive
13 surface loss or destruction of oil or gas;

14 (d) The production of oil or gas in such manner as to cause
15 unnecessary water channeling, or coning;

16 (e) The operation of an oil well with an inefficient gas-oil ratio;

17 (f) The drowning with water of any pool or part thereof capable of
18 producing oil or gas, except insofar as and to the extent authorized by
19 the ((committee)) department;

20 (g) Underground waste;

21 (h) The creation of unnecessary fire hazards;

22 (i) The escape into the open air, from a well producing oil or gas,
23 of gas in excess of the amount which is reasonably necessary in the
24 efficient development or production of the well;

25 (j) The use of gas for the manufacture of carbon black, except as
26 provided in RCW 78.52.140;

27 (k) Production of oil and gas in excess of the reasonable market
28 demand;

29 (l) The flaring of gas from gas wells except that which is
30 necessary for the drilling, completing, or testing of the well; and

31 (m) The unreasonable damage to natural resources including but not
32 limited to the destruction of the surface, soils, wildlife, fish, or
33 aquatic life from or by oil and gas operations.

34 **Sec. 810.** RCW 78.52.025 and 1983 c 253 s 3 are each amended to
35 read as follows:

36 The ((committee)) department shall hold hearings or meetings at
37 such times and places as may be found by the ((committee)) department
38 to be necessary to carry out its duties. The ((committee)) department

1 may establish its own rules for the conduct of public hearings or
2 meetings consistent with other applicable law.

3 **Sec. 811.** RCW 78.52.030 and 1951 c 146 s 6 are each amended to
4 read as follows:

5 The ~~((committee shall have the authority and it shall be its duty~~
6 ~~to)) department shall employ all personnel necessary to carry out the~~
7 provisions of this chapter.

8 **Sec. 812.** RCW 78.52.031 and 1983 c 253 s 5 are each amended to
9 read as follows:

10 The ~~((committee shall have the power to)) department may subpoena~~
11 witnesses, ~~((to))~~ administer oaths, and ~~((to))~~ require the production
12 of records, books, and documents for examination at any hearing or
13 investigation conducted by it. No person shall be excused from
14 attending and testifying, or from producing books, papers, and records
15 before the ~~((committee)) department or a court, or from obedience to~~
16 the subpoena of the ~~((committee)) department or a court, on the ground~~
17 or for the reason that the testimony or evidence, documentary or
18 otherwise, required of ~~((him)) the person may tend to incriminate~~
19 ~~((him)) the person or subject ((him)) the person to a penalty or~~
20 forfeiture: PROVIDED, That nothing herein contained shall be construed
21 as requiring any person to produce any books, papers, or records, or to
22 testify in response to any inquiry not pertinent to some question
23 lawfully before ~~((such committee)) the department or court for~~
24 determination. No person shall be subjected to criminal prosecution or
25 to any penalty or forfeiture for or on account of any transaction,
26 matter, or thing concerning which, in spite of his or her objection, he
27 or she may be required to testify or produce evidence, documentary or
28 otherwise before the ~~((committee)) department or court, or in obedience~~
29 to its subpoena: PROVIDED, HOWEVER, That no person testifying shall be
30 exempt from prosecution and punishment for perjury committed in so
31 testifying.

32 **Sec. 813.** RCW 78.52.032 and 1983 c 253 s 10 are each amended to
33 read as follows:

34 In addition to the powers and authority, either express or implied,
35 granted to the ~~((Washington oil and gas conservation committee))~~
36 department by virtue of the laws of this state, the ~~((committee))~~

1 department may, in prescribing its rules of order or procedure in
2 connection with hearings or other proceedings before the ((committee))
3 department, provide for the appointment of one or more examiners to
4 conduct a hearing or hearings with respect to any matter properly
5 coming before the ((committee)) department and to make reports and
6 recommendations to the ((committee)) department with respect thereto.
7 Any ((member)) employee of the ((committee, or its staff)) department
8 or any other person designated by the ((committee)) commissioner of
9 public lands, or the supervisor when this power is so delegated, may
10 serve as an examiner. The ((committee)) department shall adopt rules
11 governing hearings to be conducted before examiners.

12 **Sec. 814.** RCW 78.52.033 and 1951 c 146 s 8 are each amended to
13 read as follows:

14 In case of failure or refusal on the part of any person to comply
15 with a subpoena issued by the ((committee)) department or in case of
16 the refusal of any witness to testify as to any matter regarding which
17 ((he)) the witness may be interrogated, any superior court in the
18 state, upon the application of the ((committee)) department, may compel
19 ((him)) the person to comply with such subpoena, and to attend before
20 the ((committee)) department and produce such records, books, and
21 documents for examination, and to give his or her testimony and shall
22 have the power to punish for contempt as in the case of disobedience to
23 a like subpoena issued by the court, or for refusal to testify therein.

24 **Sec. 815.** RCW 78.52.035 and 1951 c 146 s 9 are each amended to
25 read as follows:

26 The attorney general shall be the attorney for the ((committee:
27 PROVIDED, That)) department, but in cases of emergency, the
28 ((committee)) department may call upon the prosecuting attorney of the
29 county where the action is to be brought, or defended, to represent the
30 ((committee)) department until such time as the attorney general may
31 take charge of the litigation.

32 **Sec. 816.** RCW 78.52.037 and 1983 c 253 s 4 are each amended to
33 read as follows:

34 ~~((The department of natural resources is the designated agent of~~
35 ~~the committee for the purpose of carrying out this chapter. It shall~~
36 ~~administer and enforce this chapter consistent with the policies~~

1 adopted by the committee, together with all rules and orders which the
2 committee may adopt and delegate, including but not limited to issuing
3 permits, orders, enforcement actions, and other actions or decisions
4 authorized to be made under this chapter.) The department shall
5 designate a state oil and gas supervisor who shall be charged with
6 duties as may be delegated by the department. The department ((of
7 natural resources)) may designate one or more deputy supervisors and
8 employ all personnel necessary including the appointment of examiners
9 as provided in RCW 78.52.032 to carry out this chapter and the rules
10 and orders of the ((committee)) department.

11 **Sec. 817.** RCW 78.52.040 and 1983 c 253 s 6 are each amended to
12 read as follows:

13 ((It shall be the duty of the committee to)) The department shall
14 administer and enforce the provisions of this chapter by the adoption
15 of policies, and all rules, regulations, and orders promulgated
16 hereunder, and the ((committee is hereby vested with)) department has
17 jurisdiction, power, and authority, over all persons and property,
18 public and private, necessary to enforce effectively such duty.

19 **Sec. 818.** RCW 78.52.050 and 1983 c 253 s 7 are each amended to
20 read as follows:

21 The ((committee shall have authority to)) department may make such
22 reasonable rules, regulations, and orders as may be necessary from time
23 to time for the proper administration and enforcement of this chapter.
24 Unless otherwise required by law or by this chapter or by rules of
25 procedure made under this chapter, the ((committee)) department may
26 make such rules, regulations, and orders, after notice, as the basis
27 therefor. The notice may be given by publication in some newspaper of
28 general circulation in the state in a manner and form which may be
29 prescribed by the ((committee)) department by general rule. The public
30 hearing shall be at the time and in the manner and at the place
31 prescribed by the ((committee)) department, and any person having any
32 interest in the subject matter of the hearing shall be entitled to be
33 heard. In addition, written notice shall be mailed to all interested
34 persons who have requested, in writing, notice of ((committee))
35 department hearings, rulings, policies, and orders. The ((committee))
36 department shall establish and maintain a mailing list for this

1 purpose. Substantial compliance with these mailing requirements is
2 deemed compliance with (~~the provisions herewith~~) this section.

3 **Sec. 819.** RCW 78.52.070 and 1951 c 146 s 12 are each amended to
4 read as follows:

5 Any interested person shall have the right to have the
6 (~~committee~~) department call a hearing for the purpose of taking
7 action with respect to any matter within the jurisdiction of the
8 (~~committee~~) department by filing a verified written petition
9 therefor, which shall state in substance the matter and reasons for and
10 nature of the action requested. Upon receipt of any such request the
11 (~~committee~~) department, if in its judgment a hearing is warranted and
12 justifiable, shall promptly call a hearing thereon, and after such
13 hearing, and with all convenient speed, and in any event within twenty
14 days after the conclusion of such hearing, shall take such action with
15 regard to the subject matter thereof as it may deem appropriate.

16 **Sec. 820.** RCW 78.52.100 and 1983 c 253 s 8 are each amended to
17 read as follows:

18 All rules, regulations, policies, and orders of the (~~committee~~)
19 department, all petitions, copies of all notices and actions with
20 affidavits of posting, mailing, or publications pertaining thereto, all
21 findings of fact, and transcripts of all hearings shall be in writing
22 and shall be entered in full by the (~~committee~~) department in the
23 permanent official records of the office of the commissioner of public
24 lands and shall be open for inspection at all times during reasonable
25 office hours. A copy of any rule, regulation, policy, order, or other
26 official records of the (~~committee~~) department, certified by the
27 (~~executive secretary of the committee~~) commissioner of public lands,
28 shall be received in evidence in all courts of this state with the same
29 effect as the original. The (~~committee~~) department is hereby
30 required to furnish to any person upon request, copies of all rules,
31 regulations, policies, orders, and amendments thereof.

32 **Sec. 821.** RCW 78.52.120 and 1983 c 253 s 11 are each amended to
33 read as follows:

34 Any person desiring or proposing to drill any well in search of oil
35 or gas, before commencing the drilling of any such well, shall apply to
36 the (~~committee~~) department upon such form as the (~~committee~~)

1 department may prescribe, and shall pay to the state treasurer a fee of
2 the following amounts for each application:

3 (1) For each well the estimated depth of which is three thousand
4 five hundred feet or less, two hundred fifty dollars;

5 (2) From three thousand five hundred one feet to seven thousand
6 feet, five hundred dollars;

7 (3) From seven thousand one feet to twelve thousand feet, seven
8 hundred fifty dollars; and

9 (4) From twelve thousand one feet and deeper, one thousand dollars.

10 In addition, as pertains to the tract upon which the well is
11 proposed to be located, the applicant must notify the surface
12 landowner, the landowner's tenant, and other surface users in the
13 manner provided by regulations of the ~~((committee))~~ department that a
14 drilling permit has been applied for by furnishing each such surface
15 landowner, tenant, and other users with a copy of the application
16 concurrent with the filing of the application. Within fifteen days of
17 receipt of the application, each such surface landowner, the
18 landowner's tenant, and other surface users have the right to inform
19 the ~~((committee))~~ department of objections or comments as to the
20 proposed use of the surface by the applicant, and the ~~((committee))~~
21 department shall consider the objections or comments.

22 The drilling of any well is prohibited until a permit is given and
23 such fee has been paid as ~~((herein))~~ provided in this section. The
24 ~~((committee shall have the authority to))~~ department may prescribe that
25 the said form indicate the exact location of such well, the name and
26 address of the owner, operator, contractor, driller, and any other
27 person responsible for the conduct of drilling operations, the proposed
28 depth of the well, the elevation of the well above sea level, and such
29 other relevant and reasonable information as the ~~((committee))~~
30 department may deem necessary or convenient to effectuate the purposes
31 of this chapter.

32 The ~~((committee))~~ department shall issue a permit if it finds that
33 the proposed drilling will be consistent with this chapter, the
34 rules~~((7))~~ and orders adopted under it, and is not detrimental to the
35 public interest. The ~~((committee))~~ department shall impose conditions
36 and restrictions as necessary to protect the public interest and to
37 ensure compliance with this chapter, and the rules and orders adopted
38 by the ~~((committee))~~ department. A person shall not apply to drill a
39 well in search of oil or gas unless that person holds an ownership or

1 contractual right to locate and operate the drilling operations upon
2 the proposed drilling site. A person shall not be issued a permit
3 unless that person prima facie holds an ownership or contractual right
4 to drill to the proposed depth, or proposed horizon. Proof of prima
5 facie ownership shall be presented to the ((committee)) department.

6 **Sec. 822.** RCW 78.52.125 and 1971 ex.s. c 180 s 8 are each amended
7 to read as follows:

8 Any person desiring or proposing to drill any well in search of oil
9 or gas, when such drilling would be conducted through or under any
10 surface waters of the state, shall prepare and submit an environmental
11 impact statement upon such form as the department of ecology shall
12 prescribe at least one hundred and twenty days prior to commencing the
13 drilling of any such well. Within ninety days after receipt of such
14 environmental statement the department of ecology shall prepare and
15 submit to ((each member of the committee)) the department of natural
16 resources a report examining the potential environmental impact of the
17 proposed well and recommendations for ((committee)) department action
18 thereon. If after consideration of the report the ((committee))
19 department determines that the proposed well is likely to have a
20 substantial environmental impact the drilling permit for such well may
21 be denied.

22 The ((committee)) department shall require sufficient safeguards to
23 minimize the hazards of pollution of all surface and ground waters of
24 the state. If safeguards acceptable to the ((committee)) department
25 cannot be provided the drilling permit shall be denied.

26 **Sec. 823.** RCW 78.52.140 and 1951 c 146 s 16 are each amended to
27 read as follows:

28 The use of gas from a well producing gas only, or from a well which
29 is primarily a gas well, for the manufacture of carbon black or similar
30 products predominantly carbon, is declared to constitute waste prima
31 facie, and such gas well shall not be used for any such purpose unless
32 it is clearly shown, at a public hearing to be held by the
33 ((committee)) department, on application of the person desiring to use
34 such gas, that waste would not take place by the use of such gas for
35 the purpose or purposes applied for, and that gas which would otherwise
36 be lost is not available for such purpose or purposes, and that the gas
37 to be used cannot be used for a more beneficial purpose, such as for

1 light or fuel purposes, except at prohibitive cost, and that it would
2 be in the public interest to grant such permit. If the ((committee))
3 department finds that the applicant has clearly shown a right to use
4 such gas for the purpose or purposes applied for, it shall issue a
5 permit upon such terms and conditions as may be found necessary in
6 order to permit the use of the gas, and at the same time require
7 compliance with the intent of this section.

8 **Sec. 824.** RCW 78.52.150 and 1951 c 146 s 17 are each amended to
9 read as follows:

10 The ~~((committee has authority, and it shall be its duty, to))~~
11 department shall make such investigations as it may deem proper to
12 determine whether waste exists or is imminent or whether other facts
13 exist which justify action by the ((committee)) department.

14 **Sec. 825.** RCW 78.52.155 and 1983 c 253 s 9 are each amended to
15 read as follows:

16 (1) The ((committee)) department shall make investigations as
17 necessary to carry out this chapter.

18 (2) The ~~((committee and the))~~ department(~~(, consistent with the~~
19 ~~committee's policies,))~~ shall require:

20 (a) Identification of ownership of oil or gas wells, producing
21 leases, tanks, plants, structures, and facilities for the
22 transportation or refining of oil or gas;

23 (b) The making and filing of well logs, core samples, directional
24 surveys, and reports on well locations, drilling, and production;

25 (c) The testing of oil and gas wells;

26 (d) The drilling, casing, operating, and plugging of wells in such
27 a manner as to prevent the escape of oil or gas out of the casings, or
28 out of one pool into another, the intrusion of water into an oil or gas
29 pool, and the pollution of freshwater supplies by oil, gas, or
30 saltwater and to prevent blowouts, cavings, seepages, and fires;

31 (e) The furnishing of adequate security acceptable to the
32 department, conditioned on the performance of the duty to plug each dry
33 or abandoned well, the duty to reclaim and clean-up well drilling
34 sites, the duty to repair wells causing waste, the duty to comply with
35 all applicable laws and rules adopted by the ((committee)) department,
36 orders of the ~~((committee and the))~~ department, all permit conditions,
37 and this chapter;

1 (f) The operation of wells with efficient gas-oil and water-oil
2 ratios and may fix these ratios and limit production from wells with
3 inefficient gas-oil or water-oil ratios;

4 (g) The production of oil and gas from wells be accurately measured
5 by means and upon standards prescribed by the ((committee)) department,
6 and that every person who produces, sells, purchases, acquires, stores,
7 transports, treats, or processes oil or gas in this state keeps and
8 maintains for a period of five years within this state complete and
9 accurate records thereof, which records shall be available for
10 examination by the ((committee)) department or its agents at all
11 reasonable times, and that every person file with the ((committee))
12 department such reports as it may prescribe with respect to the oil or
13 gas; and

14 (h) Compliance with all applicable laws and rules of this state.

15 (3) The ~~((committee and the department, consistent with the~~
16 ~~committee's policies,))~~ department shall regulate:

17 (a) The drilling, producing, locating, spacing, and plugging of
18 wells and all other operations for the production of oil or gas;

19 (b) The physical, mechanical, and chemical treatment of wells, and
20 the perforation of wells;

21 (c) Operations to increase ultimate recovery such as cycling of
22 gas, the maintenance of pressure, and the introduction of gas, water,
23 or other substances into producing formations;

24 (d) Disposal of saltwater and oil field brines;

25 (e) The storage, processing, and treatment of natural gas and oil
26 produced within this state; and

27 (f) Reclamation and clean-up of all well sites and any areas
28 directly affected by the drilling, production, operation, and plugging
29 of oil and gas wells.

30 (4) The ((committee)) department may limit and prorate oil and gas
31 produced in this state and may restrict future production of oil and
32 gas from any pool in such amounts as will offset and compensate for any
33 production determined by the ((committee)) department to be in excess
34 of or in violation of "oil allowable" or "gas allowable."

35 (5) The ((committee)) department shall classify wells as oil or gas
36 wells for purposes material to the interpretation or enforcement of
37 this chapter.

38 (6) The ~~((committee and the department, consistent with the~~
39 ~~committee's policies,))~~ department shall regulate oil and gas

1 exploration and drilling activities so as to prevent or remedy
2 unreasonable or excessive waste or surface destruction.

3 **Sec. 826.** RCW 78.52.200 and 1983 c 253 s 12 are each amended to
4 read as follows:

5 When necessary to prevent waste, to avoid the drilling of
6 unnecessary wells, or to protect correlative rights including those of
7 royalty owners, the ((committee)) department, upon its own motion or
8 upon application of interested persons, shall establish development
9 units covering any known pool. Development units shall be of uniform
10 size and shape for the entire pool unless the ((committee)) department
11 finds that it must make an exception due to geologic, geographic, or
12 other factors. When necessary, the ((committee)) department may divide
13 any pool into zones and establish development units for each zone,
14 which units may differ in size and shape from those established in any
15 other zone.

16 **Sec. 827.** RCW 78.52.205 and 1983 c 253 s 13 are each amended to
17 read as follows:

18 Within sixty days after the discovery of oil or gas in a pool not
19 then covered by an order of the ((committee)) department, a hearing
20 shall be held and the ((committee)) department shall issue an order
21 prescribing development units for the pool. If sufficient geological
22 or other scientific data from drilling operations or other evidence is
23 not available to determine the maximum area that can be efficiently and
24 economically drained by one well, the ((committee)) department may
25 establish temporary development units to ensure the orderly development
26 of the pool pending availability of the necessary data. A temporary
27 order shall continue in force for a period of not more than twenty-four
28 months at the expiration of which time, or upon the petition of an
29 affected person, the ((committee)) department shall require the
30 presentation of such geological, scientific, drilling, or other
31 evidence as will enable it to determine the proper development units in
32 the pool. During the interim period between the discovery and the
33 issuance of the temporary order, permits shall not be issued for the
34 drilling of direct offsets to a discovery well.

35 **Sec. 828.** RCW 78.52.210 and 1983 c 253 s 14 are each amended to
36 read as follows:

1 (1) The size and the shape of any development units shall be such
2 as will result in the efficient and economical development of the pool
3 as a whole, and the size shall not be smaller than the maximum area
4 that can be efficiently and economically drained by one well as
5 determined by competent geological, geophysical, engineering, drilling,
6 or other scientific testimony, data, and evidence. The ((committee))
7 department shall fix a development unit of not more than one hundred
8 sixty acres for any pool deemed by the ((committee)) department to be
9 an oil reservoir, or of six hundred forty acres for any pool deemed by
10 the ((committee)) department to be a gas reservoir, plus a ten percent
11 tolerance in either case to allow for irregular sections. The
12 ((committee)) department may, at its discretion, after notice and
13 hearing, establish development units for oil and gas in variance of
14 these limitations when competent geological, geophysical, engineering,
15 drilling, or other scientific testimony, data, and evidence is
16 presented and upon a finding that one well can efficiently and
17 economically drain a larger or smaller area and is justified because of
18 technical, economic, environmental, or safety considerations.

19 (2) The ((committee)) department may establish development units of
20 different sizes or shapes for different parts of a pool or may grant
21 exceptions to the size or shapes of any development unit or units.
22 Where development units of different sizes or shapes exist in a pool,
23 the ((committee)) department shall, if necessary, make such adjustments
24 to the allowable production from the well or wells drilled thereon so
25 that each operator in each development unit will have a reasonable
26 opportunity to produce or receive his or her just and equitable share
27 of the production.

28 **Sec. 829.** RCW 78.52.220 and 1983 c 253 s 15 are each amended to
29 read as follows:

30 An order establishing development units for a pool shall specify
31 the size and shape of each area and the location of the permitted well
32 thereon in accordance with a reasonable uniform spacing plan. Upon
33 application and after notice and a hearing, if the ((committee))
34 department finds that a well drilled at the prescribed location would
35 not produce in paying quantities, or that surface conditions would
36 substantially add to the burden or hazard of drilling such well, the
37 ((committee is authorized to)) department may enter an order permitting
38 the well to be drilled pursuant to permit at a location other than that

1 prescribed by such development order; however, the ((committee))
2 department shall include in the order suitable provisions to prevent
3 the production from the development unit of more than its just and
4 equitable share of the oil and gas in the pool.

5 **Sec. 830.** RCW 78.52.230 and 1983 c 253 s 16 are each amended to
6 read as follows:

7 An order establishing development units for a pool shall cover all
8 lands determined or believed to be underlaid by such pool, and may be
9 modified by the ((committee)) department from time to time to include
10 additional areas determined to be underlaid by such pool. When the
11 ((committee)) department determines that it is necessary for the
12 prevention of waste, or to avoid the drilling of unnecessary wells, or
13 to protect correlative rights, an order establishing development units
14 in a pool may be modified by the ((committee)) department to increase
15 or decrease the size of development units in the pool or to permit the
16 drilling of additional wells on a reasonably uniform plan in the pool.

17 **Sec. 831.** RCW 78.52.240 and 1983 c 253 s 17 are each amended to
18 read as follows:

19 When two or more separately-owned tracts are embraced within a
20 development unit, or when there are separately owned interests in all
21 or a part of the development unit, then the owners and lessees thereof
22 may pool their interests for the development and operation of the
23 development unit. In the absence of this voluntary pooling, the
24 ((committee)) department, upon the application of any interested
25 person, shall enter an order pooling all interests, including royalty
26 interests, in the development unit for the development and operation
27 thereof. Each such pooling order shall be made after notice and
28 hearing. The applicant or applicants shall have the burden of proving
29 that all reasonable efforts have been made to obtain the consent of, or
30 to reach agreement with, other owners.

31 **Sec. 832.** RCW 78.52.245 and 1983 c 253 s 18 are each amended to
32 read as follows:

33 A pooling order shall be upon terms and conditions that are fair
34 and reasonable and that afford to each owner and royalty owner his or
35 her fair and reasonable share of production. Production shall be
36 allocated as follows:

1 (1) For the purpose of determining the portions of production owned
2 by the persons owning interests in the pooled unit, the production
3 shall be allocated to the respective tracts within the unit in the
4 proportion that the surface acres in each tract bear to the number of
5 surface acres included in the entire unit.

6 (2) Notwithstanding subsection (1) of this section, if the
7 (~~committee~~) department finds that allocation on a surface acreage
8 basis does not allocate to each tract its fair share, the (~~committee~~)
9 department shall allocate the production so that each tract will
10 receive its fair share.

11 **Sec. 833.** RCW 78.52.250 and 1983 c 253 s 19 are each amended to
12 read as follows:

13 (1) Each such pooling order shall make provision for the drilling
14 and operation of a well on the development unit, and for the payment of
15 the reasonable actual cost thereof by the owners of interests required
16 to pay such costs in the development unit, plus a reasonable charge for
17 supervision and storage facilities. Costs associated with production
18 from the pooled unit shall be allocated in the same manner as is
19 production in RCW 78.52.245. In the event of any dispute as to such
20 costs the (~~committee~~) department shall determine the proper costs.

21 (2) As to each owner who fails or refuses to agree to bear his or
22 her proportionate share of the costs of the drilling and operation of
23 the well, the order shall provide for reimbursement of those persons
24 paying for the drilling and operation of the well of the nonconsenting
25 owner's share of the costs from, and only from, production from the
26 unit representing that person's interest, excluding royalty or other
27 interests not obligated to pay any part of the cost thereof. The
28 (~~committee~~) department may provide that the consenting owners shall
29 own and be entitled to receive all production from the well after
30 payment of the royalty as provided in the lease, if any, applicable to
31 each tract or interest, and obligations payable from production, until
32 the consenting owners have been paid the amount due under the terms of
33 the pooling order or order settling any dispute.

34 The order shall determine the interest of each owner in the unit
35 and shall provide that each consenting owner is entitled to receive,
36 subject to royalty or similar obligations, the share of the production
37 of the well applicable to the owner's interest in the unit, and, unless
38 the owner has agreed otherwise, his or her proportionate part of the

1 nonconsenting owner's share of the production until costs are recovered
2 as provided in this subsection. Each nonconsenting owner is entitled
3 to receive, subject to royalty or similar obligations, the share of
4 production from the well applicable to the owner's interest in the unit
5 after the consenting owners have recovered from the nonconsenting
6 owner's share of production the following:

7 (a) In respect to every such well, one hundred percent of the
8 nonconsenting owner's share of the cost of surface equipment beyond the
9 wellhead connections, including but not limited to, stock tanks,
10 separators, treaters, pumping equipment, and piping, plus one hundred
11 percent of the nonconsenting owner's share of the cost of operation of
12 the well, commencing with first production and continuing until the
13 consenting owners have recovered these costs, with the intent that the
14 nonconsenting owner's share of these costs and equipment will be that
15 interest which would have been chargeable to the nonconsenting owner
16 had he or she initially agreed to pay his or her share of the costs of
17 the well from the beginning of the operation;

18 (b) One hundred fifty percent of that portion of the costs and
19 expenses of staking the location, well site preparation, rights of way,
20 rigging-up, drilling, reworking, deepening or plugging back, testing,
21 and completing, after deducting any cash contributions received by the
22 consenting owners, and also one hundred fifty percent of that portion
23 of the cost of equipment in the well, up to and including the wellhead
24 connections; and

25 (c) If there is a dispute regarding the costs, the ((committee))
26 department shall determine the proper costs and their allocation among
27 working interest owners after due notice to interested parties and a
28 hearing on the costs.

29 (3) The operator of a well under a pooling order in which there are
30 nonconsenting owners shall furnish the nonconsenting owners with
31 monthly statements of all costs incurred, together with the quantity of
32 oil or gas produced, and the amount of proceeds realized from the sale
33 of this production during the preceding month. If and when the
34 consenting owners recover from a nonconsenting owner's relinquished
35 interest the amounts provided for in subsection (2) of this section,
36 the relinquished interest of the nonconsenting owner shall
37 automatically revert to him or her, and the nonconsenting owner shall
38 own the same interest in the well and the production from it and be

1 liable for the further costs of the operation as if he or she had
2 participated in the initial drilling and operation.

3 (4) A nonconsenting owner of a tract in a development unit which is
4 not subject to any lease or other contract for the development thereof
5 for oil and gas shall elect within fifteen days of the issuance of the
6 pooling order or such further time as the ((committee)) department
7 shall, in the order, allow:

8 (a) To be treated as a nonconsenting owner as provided in
9 subsections (2) and (3) of this section and is deemed to have a basic
10 landowners' royalty of one-eighth, or twelve and one-half percent, of
11 the production allocated to the tract, unless a higher basic royalty
12 has been established in the development unit. If a higher royalty has
13 been established, then the nonconsenting owner of a nonleased tract
14 shall receive the higher basic royalty. This presumed royalty shall
15 exist only during the time that costs and expenses are being recovered
16 under subsection (2) of this section, and is intended to assure that
17 the owner of a nonleased tract receive a basic royalty free of all
18 costs at all times. Notwithstanding anything herein to the contrary,
19 the owner shall at all times retain his or her entire ownership of the
20 property, including the right to execute an oil and gas lease on any
21 terms negotiated, and be entitled to all production subject to
22 subsection (2) of this section; or

23 (b) To grant a lease to the operator at the current fair market
24 value for that interest for comparable leases or interests at the time
25 of the commencement of drilling; or

26 (c) To pay his or her pro rata share of the costs of the well or
27 wells in the development unit and receive his or her pro rata share of
28 production, if any.

29 A nonconsenting owner who does not make an election as provided in
30 this subsection is deemed to have elected to be treated under (a) of
31 this subsection.

32 **Sec. 834.** RCW 78.52.257 and 1983 c 253 s 22 are each amended to
33 read as follows:

34 (1) An order pooling a development unit shall automatically
35 dissolve:

36 (a) One year after its effective date if there has been no
37 production of commercial quantities or drilling operations on lands
38 within the unit;

1 (b) Six months after completion of a dry hole on the unit; or
2 (c) Six months after cessation of production of commercial
3 quantities from the unit, unless, prior to the expiration of such six-
4 month period, the operator shall, in good faith, commence drilling or
5 reworking operations in an effort to restore production.

6 (2) Upon the termination of a lease pooled by order of the
7 (~~committee~~) department under authority granted in this chapter,
8 interests covered by the lease are considered pooled as unleased
9 mineral interests.

10 (3) Any party to a pooling order is entitled, after due notice to
11 all parties, to a hearing to modify or terminate a previously entered
12 pooling order upon presenting new evidence showing that the previous
13 determination of reservoir conclusions are substantially incorrect.

14 (4) The (~~committee, in its discretion~~) department, after notice
15 and hearing, may grant additional time, for good cause shown, before a
16 pooling order is automatically dissolved as provided in subsection (1)
17 of this section. In no case may such an extension be longer than six
18 months.

19 **Sec. 835.** RCW 78.52.260 and 1951 c 146 s 28 are each amended to
20 read as follows:

21 Whenever the (~~committee shall~~) department requires the making and
22 filing of well logs, directional surveys, or reports on the drilling
23 of, subsurface conditions found in, or reports with respect to the
24 substance produced, or capable of being produced from, a "wildcat" or
25 "exploratory" well, as those terms are used in the petroleum industry,
26 such logs, surveys, reports, or information shall be kept confidential
27 by the (~~committee~~) department for a period of one year, if at the
28 time of filing such logs, surveys, reports, or other information, the
29 owner, lessee, or operator of such well requests that such information
30 be kept confidential: PROVIDED, HOWEVER, That the (~~committee shall~~
31 ~~have the right to~~) department may divulge or use such information in
32 a public hearing or suit when it is necessary for the enforcement of
33 the provisions of this chapter or any rule, regulation, or order made
34 hereunder.

35 **Sec. 836.** RCW 78.52.270 and 1951 c 146 s 29 are each amended to
36 read as follows:

1 Whenever the total amount of oil which all of the pools in this
2 state can currently produce in accordance with good operating
3 practices, exceeds the amount reasonably required to meet the
4 reasonable market demand, the ((committee)) department shall limit the
5 oil which may be currently produced in this state to an amount,
6 designated the "oil allowable((♠))." The ((committee)) department
7 shall then prorate this "oil allowable" among the pools on a reasonable
8 basis, avoiding undue discrimination among the pools, and so that waste
9 will be prevented. In determining the "oil allowable((♠)), and in
10 prorating such "oil allowable" among the pools in the state, the
11 ((committee)) department shall take into account the producing
12 conditions and other relevant facts with respect to such pools,
13 including the separate needs for oil and gas, and separate needs for
14 oil of particular kinds or qualities, and shall formulate rules setting
15 forth standards or a program for the determination of the "oil
16 allowable((♠)), and shall prorate the "oil allowable" in accordance
17 with such standards or program, and where conditions in one pool or
18 area are substantially similar to those in another pool or area, then
19 the same standards or program shall be applied to such pools or areas
20 so that as far as practicable a uniform program will be followed:
21 PROVIDED, HOWEVER, That if the amount prorated to a pool as its share
22 of the "oil allowable" is in excess of the amount which the pool can
23 efficiently produce currently, then the ((committee)) department shall
24 prorate to such pool the maximum amount which can be efficiently
25 produced currently without waste.

26 **Sec. 837.** RCW 78.52.280 and 1951 c 146 s 30 are each amended to
27 read as follows:

28 The ((committee)) department shall not be required to determine the
29 reasonable market demand applicable to any single pool of oil except in
30 relation to all pools producing oil of similar kind and quality and in
31 relation to the reasonable market demand. The ((committee)) department
32 shall prorate the "allowable" in such manner as will prevent undue
33 discrimination against any pool or area in favor of another or others
34 resulting from selective buying or nomination by purchasers.

35 **Sec. 838.** RCW 78.52.290 and 1951 c 146 s 31 are each amended to
36 read as follows:

1 Whenever the total amount of gas which all of the pools in this
2 state can currently produce in accordance with good operating practice
3 exceeds the amount reasonably required to meet the reasonable market
4 demand, the ((committee)) department shall limit the gas which may be
5 currently produced to an amount, designated as the "gas
6 allowable^(#)," which will not exceed the reasonable market demand for
7 gas. The ((committee)) department shall then prorate the "gas
8 allowable" among the pools on a reasonable basis, avoiding undue
9 discrimination among the pools, and so that waste will be prevented,
10 giving due consideration to location of pipe lines, cost of
11 interconnecting such pipe lines, and other pertinent factors, and
12 insofar as applicable, the provisions of RCW 78.52.270 shall be
13 followed in determining the "gas allowable" and in prorating such "gas
14 allowable" among the pools therein: PROVIDED, HOWEVER, That in
15 determining the reasonable market demand for gas as between pools, the
16 ((committee)) department shall give due regard to the fact that gas
17 produced from oil pools is to be regulated in a manner which will
18 protect the reasonable use of gas energy for oil production and promote
19 the most or maximum efficient recovery of oil from such pools.

20 **Sec. 839.** RCW 78.52.300 and 1951 c 146 s 32 are each amended to
21 read as follows:

22 Whenever the total amount of gas which may be currently produced
23 from all of the pools in this state has not been limited as hereinabove
24 provided, and the available production from any one pool containing gas
25 only is in excess of the reasonable market demand or available
26 transportation facilities for gas from such pool, the ((committee))
27 department shall limit the production of gas from such pool to that
28 amount which does not exceed the reasonable market demand or
29 transportation facilities for gas from such pool.

30 **Sec. 840.** RCW 78.52.310 and 1951 c 146 s 33 are each amended to
31 read as follows:

32 Whenever the ((committee)) department limits the total amount of
33 oil or gas which may be produced from any pool to an amount less than
34 that which the pool could produce if no restrictions were imposed
35 (whether incidental to, or without, a limitation of the total amount of
36 oil which may be produced in the state) the ((committee)) department
37 shall prorate the allowable production for the pool among the producers

1 in the pool on a reasonable basis, so that each producer will have
2 opportunity to produce or receive his or her just and equitable share,
3 subject to the reasonable necessities for the prevention of waste,
4 giving where reasonable, under the circumstances, to each pool with
5 small wells of settled production, allowable production which prevents
6 the premature abandonment of wells in the pool.

7 All orders establishing the "oil allowable" and "gas allowable" for
8 this state, and all orders prorating such allowables as herein
9 provided, and any changes thereof, for any month or period shall be
10 issued by the ~~((committee))~~ department on or before the fifteenth day
11 of the month preceding the month for which such orders are to be
12 effective, and such orders shall be immediately published in some
13 newspaper of general circulation printed in Olympia, Washington. No
14 orders establishing such allowables, or prorating such allowables, or
15 any changes thereof, shall be issued without first having a hearing,
16 after notice, as provided in this chapter: PROVIDED, HOWEVER, When in
17 the judgment of the ~~((committee))~~ department, an emergency requiring
18 immediate action is found to exist, the ~~((committee is authorized to))~~
19 department may issue an emergency order under this section which shall
20 have the same effect and validity as if a hearing with respect to the
21 same had been held after due notice. The emergency order permitted by
22 this ~~((subsection))~~ section shall remain in force no longer than thirty
23 days, and in any event it shall expire when the order made after due
24 notice and hearing with respect to the subject matter of the emergency
25 order becomes effective.

26 **Sec. 841.** RCW 78.52.320 and 1951 c 146 s 34 are each amended to
27 read as follows:

28 Whenever the production of oil or gas in this state or any pool
29 therein is limited and the "oil allowable" or "gas allowable" is
30 established and prorated by the ~~((committee))~~ department as provided in
31 RCW 78.52.310, no person shall thereafter produce from any well, pool,
32 lease, or property more than the production which is prorated thereto.

33 **Sec. 842.** RCW 78.52.330 and 1951 c 146 s 35 are each amended to
34 read as follows:

35 To assist in the development of oil and gas in this state and to
36 further the purposes of this chapter, the persons owning interests in
37 separate tracts of land, may validly agree to integrate their interests

1 and manage, operate, and develop their land as a unit, subject to the
2 approval of the ~~((committee))~~ department.

3 **Sec. 843.** RCW 78.52.335 and 1983 c 253 s 23 are each amended to
4 read as follows:

5 (1) The ~~((committee))~~ department shall upon the application of any
6 interested person, or upon its own motion, hold a hearing to consider
7 the need for the operation as a unit of one or more pools or parts of
8 them in a field.

9 (2) The ~~((committee shall have the authority to))~~ department may
10 enter an order providing for the unit operations if ~~((the committee))~~
11 it finds that:

12 (a) The unit operations are necessary for secondary recovery or
13 enhanced recovery purposes. For purposes of this chapter secondary or
14 enhanced recovery means that oil or gas or both are recovered by any
15 method, artificial flowing or pumping, that may be employed to produce
16 oil or gas, or both, through the joint use of two or more wells with an
17 application of energy extrinsic to the pool or pools. This includes
18 pressuring, cycling, pressure maintenance, or injections into the pool
19 or pools of a substance or form of energy: PROVIDED, That this does
20 not include the injection in a well of a substance or form of energy
21 for the sole purpose of (i) aiding in the lifting of fluids in the
22 well, or (ii) stimulation of the reservoir at or near the well by
23 mechanical, chemical, thermal, or explosive means;

24 (b) The unit operations will protect correlative rights;

25 (c) The operations will increase the ultimate recovery of oil or
26 gas, or will prevent waste, or will prevent the drilling of unnecessary
27 wells; and

28 (d) The value of the estimated additional recovery of oil and/or
29 gas exceeds the estimated additional cost incident to conducting these
30 operations.

31 (3) The ~~((committee shall also have the authority to))~~ department
32 may also enter an order providing for unit operations, after notice and
33 hearing, only if the ~~((committee))~~ department finds that there is clear
34 and convincing evidence that all of the following conditions are met:

35 (a) In the absence of unitization, the ultimate recovery of oil or
36 gas, or both, will be substantially decreased because normal production
37 techniques and methods are not feasible and will not result in the
38 maximum efficient and economic recovery of oil or gas, or both;

1 (b) The unit operations will protect correlative rights;

2 (c) The unit operations will prevent waste, or will prevent the
3 drilling of unnecessary wells;

4 (d) There has been a discovery of a commercial oil or gas field;
5 and

6 (e) There has been sufficient exploration, drilling activity, and
7 development to properly define the one or more pools or parts of them
8 in a field proposed to be unitized.

9 (4) Notwithstanding any of the above, nothing in this chapter may
10 be construed to prevent the voluntary agreement of all interested
11 persons to any plan of unit operations. The ~~((committee))~~ department
12 shall approve operations upon making a finding consistent with
13 subsection~~((s))~~ (2) (b) and (c) of this section.

14 (5) The order shall be upon terms and conditions that are fair and
15 reasonable and shall prescribe a plan for unit operations that
16 includes:

17 (a) A description of the pool or pools or parts thereof to be so
18 operated, termed the unitized area;

19 (b) A statement of the nature of the operations contemplated;

20 (c) An allocation of production and costs to the separately-owned
21 tracts in the unitized area. The allocation shall be in accord with
22 the agreement, if any, of the interested parties. If there is no
23 agreement, production shall be allocated in a manner calculated to
24 ensure that each owner's correlative rights are protected, and each
25 separately-owned tract or combination of tracts receives its fair and
26 reasonable share of production. Costs shall be allocated on a fair and
27 reasonable basis;

28 (d) A provision, if necessary, prescribing fair, reasonable, and
29 equitable terms and conditions as to time and rate of interest for
30 carrying or otherwise financing any person who is unable to promptly
31 meet his or her financial obligations in connection with the unit, such
32 carrying and interest charges to be paid as provided by the
33 ~~((committee))~~ department from the person's prorated share of
34 production;

35 (e) A provision for the supervision and conduct of the unit
36 operations, in respect to which each owner shall have a vote with a
37 value corresponding to the percentage of the costs of unit operations
38 chargeable against the owner's interest;

1 (f) The time when the unit operations shall commence, the timetable
2 for development, and the manner and circumstances under which the unit
3 operations shall terminate; and

4 (g) Additional provisions which are found to be appropriate for
5 carrying out the unit operations and for the protection of correlative
6 rights.

7 (6) No order of the ((committee)) department providing for unit
8 operations may become effective until:

9 (a) The plan for unit operations approved by the ((committee))
10 department has been approved in writing by those persons who, under the
11 ((committee's)) department's order, will be required to pay at least
12 seventy-five percent of the costs of unit operations;

13 (b) The plan has been approved in writing by those persons such as
14 royalty owners, overriding royalty owners, and production payment
15 owners, who own at least seventy-five percent of the production or
16 proceeds thereof that will be credited to interests that are free of
17 costs; and

18 (c) The ((committee)) department has made a finding, either in the
19 order providing for unit operations or in a supplemental order, that
20 the plan for unit operations has been so approved. If the plan for
21 unit operations has not been so approved at the time the order
22 providing for unit operations is made, the ((committee)) department
23 shall upon application and notice hold such supplemental hearings as
24 may be required to determine if and when the plan for unit operations
25 has been so approved. If the persons owning required percentages of
26 interest in the unitized area do not approve the plan for unit
27 operations within a period of six months from the date on which the
28 order providing for unit operations is made, or within such additional
29 period or periods of time as the ((committee)) department prescribes,
30 the order will become unenforceable and shall be vacated by the
31 ((committee)) department.

32 (7) An order providing for unit operations may be amended by an
33 order made by the ((committee)) department in the same manner and
34 subject to the same conditions as an original order, except as provided
35 in subsection (8) of this section, providing for unit operations, but
36 (a) if such an amendment affects only the rights and interests of the
37 owners, the approval of the amendment by those persons who own
38 interests that are free of costs is not required, and (b) no such
39 amending order may change the percentage for the allocation of oil and

1 gas as established for any separately-owned tract or combination of
2 tracts by the original order, except with the consent of all persons
3 owning oil and gas rights in the tract, and no such order may change
4 the percentage for the allocation of cost as established for any
5 separately-owned tract or combination of tracts by the original order,
6 except with the consent of all persons owning an interest in the tract
7 or combination of tracts. An amendment that provides for the expansion
8 of the unit area shall comply with subsection (8) of this section.

9 (8) The ((committee)) department, by order, may provide for the
10 unit operation of a reservoir or reservoirs or parts thereof that
11 include a unitized area established by a previous order of the
12 ((committee)) department. The order, in providing for the allocation
13 of unit production, shall first treat the unitized area previously
14 established as a single tract and the portion of the new unit
15 production allocated thereto shall then be allocated among the
16 separately-owned tracts included in the previously established unit
17 area in the same proportions as those specified in the previous order.

18 (9) After the date designated by the ((committee)) department the
19 unit plan shall be effective, oil and gas leases within the unit area,
20 or other contracts pertaining to the development thereof, shall be
21 changed only to the extent necessary to meet the requirements of the
22 unit plan, and otherwise shall remain in full force. Operations
23 carried on under and in accordance with the unit plan shall be regarded
24 and considered as fulfillment of and compliance with all of the
25 provisions, covenants, and conditions, expressed or implied, of the
26 several oil and gas leases upon lands within the unit area, or other
27 contracts pertaining to the development thereof, insofar as the leases
28 or other contracts may relate to the pool or field subject to the unit
29 plan. The amount of production apportioned and allocated under the
30 unit plan to each separately-owned tract within the unit area, and only
31 that amount, regardless of the location of the well within the unit
32 area from which it may be produced, and regardless of whether it is
33 more or less than the amount of production from the well, if any, on
34 each separately-owned tract, shall for all purposes be regarded as
35 production from the separately-owned tract. Lessees shall not be
36 obligated to pay royalties or make other payments, required by the oil
37 and gas leases or other contracts affecting each such separately-owned
38 tract, on production in excess of that amount apportioned and allocated
39 to the separately-owned tract under the unit plan.

1 (10) The portion of the unit production allocated to any tract and
2 the proceeds from its sale are the property and income of the several
3 persons to whom, or to whose credit, the portion and proceeds are
4 allocated or payable under the order providing for unit operations.

5 (11) No division order or other contract relating to the sale,
6 purchase, or production from a separately-owned tract or combination of
7 tracts may be terminated by the order providing for unit operations but
8 shall remain in force and shall apply to oil and gas allocated to the
9 tract until terminated by an amended division order or contract in
10 accordance with the order.

11 (12) Except to the extent that parties affected so agree, an order
12 providing for unit operations shall not be construed to result in a
13 transfer of all or any part of the title of any person to the oil and
14 gas rights in any tract in the unit area. All property, whether real
15 or personal, that may be acquired in the conduct of unit operations
16 hereunder shall be acquired for the account of the owners within the
17 unit area, and shall be the property of those owners in the proportion
18 that the expenses of unit operations are charged.

19 (13) After the date designated by the order of the ((committee))
20 department that a unit plan shall become effective, the designation of
21 one or more unit operators shall be by vote of the lessees of land in
22 the unit area, in a manner to be provided in the unit plan, and any
23 operations in conflict with such unit plan shall be unlawful and are
24 prohibited.

25 (14) A certified copy of any order of the ((committee)) department
26 entered under this section is entitled to be recorded in the auditor's
27 office in the county or counties wherein all or any portion of the unit
28 area is located and, if recorded, constitute notice thereof to all
29 persons. A copy of this order shall be mailed by certified mail to all
30 interested persons.

31 (15) No order for unitization may be construed to allow the
32 drilling of a well on a tract within the unit which is not leased or
33 under contract for oil and gas exploration or production.

34 **Sec. 844.** RCW 78.52.365 and 1983 c 253 s 26 are each amended to
35 read as follows:

36 The ((committee)) department may administer and enforce RCW
37 78.52.345 and 78.52.355 in accordance with the procedures in this

1 chapter for its enforcement and with the rules and orders of the
2 ((committee)) department.

3 **Sec. 845.** RCW 78.52.460 and 1951 c 146 s 49 are each amended to
4 read as follows:

5 No plan for the operation of a field or pool of oil or gas as a
6 unit, either whole or in part, created or approved by the ((committee
7 hereunder shall)) department under this chapter may be held to violate
8 any of the statutes of this state prohibiting monopolies or acts,
9 arrangements, agreements, contracts, combinations, or conspiracies in
10 restraint of trade or commerce.

11 **Sec. 846.** RCW 78.52.463 and 1989 c 175 s 167 are each amended to
12 read as follows:

13 (1) Any operation or activity that is in violation of applicable
14 laws, rules, orders, or permit conditions is subject to suspension by
15 order of the ((committee)) department. The order may suspend the
16 operations authorized in the permit in whole or in part. The order may
17 be issued only after the ((committee)) department has first notified
18 the operator or owner of the violations and the operator or owner has
19 failed to comply with the directions contained in the notification
20 within ten days of service of the notice: PROVIDED, That the
21 ((committee)) department may issue the suspension order immediately
22 without notice if the violations are or may cause substantial harm to
23 adjacent property, persons, or public resources, or has or may result
24 in the pollution of waters in violation of any state or federal law or
25 rule. A suspension shall remain in effect until the violations are
26 corrected or other directives are complied with unless declared invalid
27 by the ((committee)) department after hearing or an appeal. The
28 suspension order and notification, where applicable, shall specify the
29 violations and the actions required to be undertaken to be in
30 compliance with such laws, rules, orders, or permit conditions. The
31 order and notification may also require remedial actions to be
32 undertaken to restore, prevent, or correct activities or conditions
33 which have resulted from the violations. The order and notification
34 may be directed to the operator or owner or both.

35 (2) The suspension order constitutes a final and binding order
36 unless the owner or operator to whom the order is directed requests a
37 hearing before the ((committee)) department within fifteen days after

1 service of the order. Such a request shall not in itself stay or
2 suspend the order and the operator or owner shall comply with the order
3 immediately upon service. The (~~committee or its chairman have the~~
4 ~~authority to~~) department may stay or suspend in whole or in part the
5 suspension order pending a hearing if so requested. The hearing shall
6 constitute an adjudicative proceeding under chapter 34.05 RCW, the
7 Administrative Procedure Act.

8 **Sec. 847.** RCW 78.52.467 and 1983 c 253 s 30 are each amended to
9 read as follows:

10 (1) The sale, purchase, acquisition, transportation, refining,
11 processing, or handling of illegal oil, gas, or product is prohibited.
12 However, no penalty by way of fine may be imposed upon a person who
13 sells, purchases, acquires, transports, refines, processes, or handles
14 illegal oil, gas, or product unless (a) the person knows, or is put on
15 notice of, facts indicating that illegal oil, illegal gas, or illegal
16 product is involved, or (b) the person fails to obtain a certificate of
17 clearance with respect to the oil, gas, or product if prescribed by
18 rule or order of the (~~committee~~) department, or fails to follow any
19 other method prescribed by an order of the (~~committee~~) department for
20 the identification of the oil, gas, or product.

21 (2) Illegal oil, illegal gas, and illegal product are declared to
22 be contraband and are subject to seizure and sale as provided in this
23 section. Seizure and sale shall be in addition to all other remedies
24 and penalties provided in this chapter for violations relating to
25 illegal oil, illegal gas, or illegal product. If the (~~committee~~)
26 department believes that any oil, gas, or product is illegal, the
27 (~~committee~~) department acting through the attorney general, shall
28 bring a civil action in rem in the superior court of the county in
29 which the oil, gas, or product is found, to seize and sell the same, or
30 the (~~committee~~) department may include such an action in rem in any
31 suit brought for an injunction or penalty involving illegal oil,
32 illegal gas, or illegal product. A person claiming an interest in oil,
33 gas, or product affected by an action in rem has the right to intervene
34 as an interested party.

35 (3) Actions for the seizure and sale of illegal oil, illegal gas,
36 or illegal product shall be strictly in rem and shall proceed in the
37 name of the state as plaintiff against the oil, gas, or product as
38 defendant. No bond or similar undertaking may be required of the

1 plaintiff. Upon the filing of the petition for seizure and sale, the
2 clerk of the court shall issue a summons, with a copy of the petition
3 attached thereto, directed to the sheriff of the county or to another
4 officer or person whom the court may designate, for service upon all
5 persons having or claiming any interest in the oil, gas, or product
6 described in the petition. The summons shall command these persons to
7 appear and answer within twenty days after the issuance and service of
8 the summons. These persons need not be named or otherwise identified
9 in the summons, and the summons shall be served by posting a copy of
10 the summons, with a copy of the petition attached, on any public
11 bulletin board or at the courthouse of a county where the oil, gas, or
12 product involved is located, and by posting another copy at or near the
13 place where the oil, gas, or product is located. The posting
14 constitutes notice of the action to all persons having or claiming any
15 interest in the oil, gas, or product described in the petition. In
16 addition, if the court, on a properly verified petition, or affidavit
17 or affidavits, or oral testimony, finds that grounds for seizure and
18 for sale exist, the court shall issue an immediate order of seizure,
19 describing the oil, gas, or product to be seized, and directing the
20 sheriff of the county to take the oil, gas, or product into the
21 sheriff's actual or constructive custody and to hold the same subject
22 to further orders of the court. The court, in the order of seizure,
23 may direct the sheriff to deliver the oil, gas, or product seized by
24 him or her under the order to a court-appointed agent. The agent shall
25 give bond in an amount and with such surety as the court may direct,
26 conditioned upon compliance with the orders of the court concerning the
27 custody and disposition of the oil, gas, or product.

28 (4) Any person having an interest in oil, gas, or product described
29 in order of seizure and contesting the right of the state to seize and
30 sell the oil, gas, or product may obtain its release prior to sale upon
31 furnishing to the sheriff a bond approved by the court. The bond shall
32 be in an amount equal to one hundred fifty percent of the market value
33 of the oil, gas, or product to be released and shall be conditioned
34 upon either redelivery to the sheriff of the released commodity or
35 payment to the sheriff of its market value, if and when ordered by the
36 court, and upon full compliance with further orders of the court.

37 (5) If the court, after a hearing upon a petition for the seizure
38 and sale of oil, gas, or product, finds that the oil, gas, or product
39 is contraband, the court shall order its sale by the sheriff in the

1 same manner and upon the same notice of sale as provided by law for the
2 sale of personal property on execution of judgment entered in a civil
3 action, except that the court may order that the oil, gas, or product
4 be sold in specified lots or portions and at specified intervals. Upon
5 sale, title to the oil, gas, or product sold shall vest in the
6 purchaser free of all claims, and it shall be legal oil, legal gas, or
7 legal product in the hands of the purchaser.

8 (6) All proceeds, less costs of suit and expenses of sale, which
9 are derived from the sale of illegal oil, illegal gas, or illegal
10 product, and all amounts paid as penalties provided for by this
11 chapter, shall be paid into the state treasury for the use of the
12 ((committee)) department in defraying its expenses in the same manner
13 as other funds provided by law for the use of the ((committee))
14 department.

15 **Sec. 848.** RCW 78.52.470 and 1989 c 175 s 168 are each amended to
16 read as follows:

17 Any person adversely affected by any order of the ((committee))
18 department may, within thirty days from the effective date of such
19 order, apply for a hearing with respect to any matter determined
20 therein. No cause for action arising out of any order of the
21 ((committee—shall)) department accrues in any court to any person
22 unless the person makes application for a hearing as ((herein))
23 provided in this section. Such application shall set forth
24 specifically the ground on which the applicant considers the order to
25 be unlawful or unreasonable. No party shall, in any court, urge or
26 rely upon any ground not set forth in said application. An order made
27 in conformity to a decision resulting from a hearing which abrogates,
28 changes, or modifies the original order shall have the same force and
29 effect as an original. Such hearing shall constitute an adjudicative
30 proceeding under chapter 34.05 RCW, the Administrative Procedure Act,
31 and shall be conducted in accordance with its provisions.

32 **Sec. 849.** RCW 78.52.480 and 1983 c 253 s 28 are each amended to
33 read as follows:

34 In proceedings for review of an order or decision of the
35 ((committee)) department, the ((committee)) department shall be a party
36 to the proceedings and shall have all rights and privileges granted by
37 this chapter to any other party to such proceedings.

1 **Sec. 850.** RCW 78.52.490 and 1983 c 253 s 32 are each amended to
2 read as follows:

3 Within thirty days after the application for a hearing is denied,
4 or if the application is granted, then within thirty days after the
5 rendition of the decision on the hearing, the applicant may apply to
6 the superior court, at the petitioner's option, for (a) Thurston
7 county, (b) the county of petitioner's residence or place of business,
8 or (c) in any county where the property or property rights owned by the
9 petitioner is located for a review of such rule, regulation, order, or
10 decision. The application for review shall be filed in the office of
11 the clerk of the superior court of Thurston county and shall
12 specifically state the grounds for review upon which the applicant
13 relies and shall designate the rule, regulation, order, or decision
14 sought to be reviewed. The applicant shall immediately serve a
15 certified copy of said application upon the (~~executive secretary of~~
16 ~~the committee~~) commissioner of public lands who shall immediately
17 notify all parties who appeared in the proceedings before the
18 (~~committee~~) department that such application for review has been
19 filed. In the event the court determines the review is solely for the
20 purpose of determining the validity of a rule or regulation of general
21 applicability the court shall transfer venue to Thurston county for a
22 review of such rule or regulation in the manner provided for in RCW
23 (~~(34.05.538)~~) 34.05.570.

24 **Sec. 851.** RCW 78.52.530 and 1951 c 146 s 56 are each amended to
25 read as follows:

26 Whenever it shall appear that any person is violating any
27 provisions of this chapter, or any rule, regulation, or order made by
28 the (~~committee hereunder~~) department under this chapter, and if the
29 (~~committee~~) department cannot, without litigation, effectively
30 prevent further violation, the (~~committee~~) department may bring suit
31 in the name of the state against such person in the superior court in
32 the county of the residence of the defendant, or in the county of the
33 residence of any defendant if there be more than one defendant, or in
34 the county where the violation is alleged to have occurred, to restrain
35 such person from continuing such violation. In such suit the
36 (~~committee~~) department may without bond obtain injunctions
37 prohibitory and mandatory, including temporary restraining orders and
38 preliminary injunctions, as the facts may warrant.

1 **Sec. 852.** RCW 78.52.540 and 1951 c 146 s 57 are each amended to
2 read as follows:

3 (~~In the event the committee should~~) If the department fails to
4 bring suit within thirty days to enjoin any apparent violation of this
5 chapter, or of any rule, regulation, or order made by the (~~committee~~
6 ~~hereunder~~) department under this chapter, then any person or party in
7 interest adversely affected by such violation, who has requested the
8 (~~committee~~) department in writing to sue, may, to prevent any or
9 further violation, bring suit for that purpose in the superior court of
10 any county where the (~~committee~~) department could have instituted
11 such suit. If, in such suit, the court should hold that injunctive
12 relief should be granted, then the state shall be made a party and
13 shall be substituted for the person who brought the suit, and the
14 injunction shall be issued as if the state had at all times been the
15 complainant.

16 **OIL SPILL CONTINGENCY PLAN CORPORATION**

17 NEW SECTION. **Sec. 853.** A new section is added to chapter 88.46
18 RCW to read as follows:

19 A nonprofit corporation established for the sole purpose of
20 providing contingency plan coverage for any vessel in compliance with
21 RCW 88.46.060 is entitled to liability protection as provided in this
22 section. Obligations incurred by the corporation and any other
23 liabilities or claims against the corporation may be enforced only
24 against the assets of the corporation, and no liability for the debts
25 or actions of the corporation exists against a director, officer,
26 member, employee, incident commander, agent, contractor, or
27 subcontractor of the corporation in his or her individual or
28 representative capacity. Except as otherwise provided in this chapter,
29 neither the directors, officers, members, employees, incident
30 commander, or agents of the corporation, nor the business entities by
31 whom they are regularly employed may be held individually responsible
32 for discretionary decisions, errors in judgment, mistakes, or other
33 acts, either of commission or omission, that are directly related to
34 the operation or implementation of contingency plans, other than for
35 acts of gross negligence or willful or wanton misconduct. The
36 corporation may insure and defend and indemnify the directors,
37 officers, members, employees, incident commanders, and agents to the

1 extent permitted by chapters 23B.08 and 24.03 RCW. This section does
2 not alter or limit the responsibility or liability of any person for
3 the operation of a motor vehicle.

4 **MARINE SAFETY COMMITTEES**

5 NEW SECTION. **Sec. 854.** A new section is added to chapter 88.46
6 RCW to read as follows:

7 The administrator may appoint ad hoc, advisory marine safety
8 committees to solicit recommendations and technical advice concerning
9 vessel traffic safety. The office may implement recommendations made
10 in regional marine safety plans that are approved by the office and
11 over which the office has authority. If federal authority or action is
12 required to implement the recommendations, the office may petition the
13 appropriate agency or the Congress.

14 **SCIENTIFIC ADVISORY BOARD FOR THE OIL SPILL COMPENSATION SCHEDULE**

15 **Sec. 855.** RCW 90.48.366 and 1992 c 73 s 28 are each amended to
16 read as follows:

17 By July 1, 1991, the department, in consultation with the
18 departments of fisheries, wildlife, and natural resources, and the
19 parks and recreation commission, shall adopt rules establishing a
20 compensation schedule for the discharge of oil in violation of this
21 chapter and chapter 90.56 RCW. (~~The department shall establish a
22 scientific advisory board to assist in establishing the compensation
23 schedule.~~) The amount of compensation assessed under this schedule
24 shall be no less than one dollar per gallon of oil spilled and no
25 greater than fifty dollars per gallon of oil spilled. The compensation
26 schedule shall reflect adequate compensation for unquantifiable damages
27 or for damages not quantifiable at reasonable cost for any adverse
28 environmental, recreational, aesthetic, or other effects caused by the
29 spill and shall take into account:

30 (1) Characteristics of any oil spilled, such as toxicity,
31 dispersibility, solubility, and persistence, that may affect the
32 severity of the effects on the receiving environment, living organisms,
33 and recreational and aesthetic resources;

34 (2) The sensitivity of the affected area as determined by such
35 factors as: (a) The location of the spill; (b) habitat and living

1 resource sensitivity; (c) seasonal distribution or sensitivity of
2 living resources; (d) areas of recreational use or aesthetic
3 importance; (e) the proximity of the spill to important habitats for
4 birds, aquatic mammals, fish, or to species listed as threatened or
5 endangered under state or federal law; (f) significant archaeological
6 resources as determined by the office of archaeology and historic
7 preservation; and (g) other areas of special ecological or recreational
8 importance, as determined by the department. If the department has
9 adopted rules for a compensation table prior to July 1, 1992, the
10 sensitivity of significant archaeological resources shall only be
11 included among factors to be used in the compensation table when the
12 department revises the rules for the compensation table after July 1,
13 1992; and

14 (3) Actions taken by the party who spilled oil or any party liable
15 for the spill that: (a) Demonstrate a recognition and affirmative
16 acceptance of responsibility for the spill, such as the immediate
17 removal of oil and the amount of oil removed from the environment; or
18 (b) enhance or impede the detection of the spill, the determination of
19 the quantity of oil spilled, or the extent of damage, including the
20 unauthorized removal of evidence such as injured fish or wildlife.

21 **TASK FORCE ON STATE-WIDE EVALUATION OF IRRIGATED AREAS**

22 **Sec. 856.** RCW 90.54.190 and 1989 c 348 s 11 are each amended to
23 read as follows:

24 (1) (~~The department of ecology may establish a task force to~~
25 ~~assist in a state wide evaluation of irrigated areas, not to exceed six~~
26 ~~months in duration, to determine the associated impacts of efficiency~~
27 ~~measures, efficiency opportunities, and local interest.)) The
28 department ((and the task force)) shall establish a list of basin and
29 stream efficiency initiatives and select an irrigation area for a
30 voluntary demonstration project.~~

31 (2) Prior to conducting conservation assessments and developing
32 conservation plans, the department of ecology shall secure technical
33 and financial assistance from the bureau of reclamation to reduce the
34 costs to the state to the extent possible.

35 (3) A "conservation assessment" as described in this section shall
36 be conducted before a demonstration project to increase the efficiency

1 of irrigated agriculture is undertaken for an irrigated area, a basin,
2 subbasin, or stream. The conservation assessment should:

3 (a) Evaluate existing patterns, including current reuse of return
4 flows, and priorities of water use;

5 (b) Assess conflicting needs for future water allocations and
6 claims to reserved rights;

7 (c) Evaluate hydrologic characteristics of surface and ground water
8 including return flow characteristics;

9 (d) Assess alternative efficiency measures;

10 (e) Determine the likely net water savings of efficiency
11 improvements including the amount and timing of water that would be
12 saved and potential benefits and impacts to other water uses and
13 resources including effects on artificial recharge of ground water and
14 wetland impacts;

15 (f) Evaluate the full range of costs and benefits that would accrue
16 from various measures; and

17 (g) Evaluate the potential for integrating conservation efforts
18 with operation of existing or potential storage facilities.

19 (4) The conservation assessment shall be used as the basis for
20 development of a demonstration conservation plan to rank conservation
21 elements based on relative costs, benefits, and impacts. It shall also
22 estimate the costs of implementing the plan and propose a specific
23 basis for cost share distributions.

24 The demonstration conservation plan shall be developed jointly by
25 the department and a conservation plan formulation committee consisting
26 of representatives of a cross-section of affected local water users,
27 members of the public, and tribal governments. Other public agencies
28 with expertise in water resource management may participate as
29 nonvoting committee members. A proposed demonstration conservation
30 plan may be approved by the department and the committee only after
31 public comment has been received.

32 (5) The department shall reimburse any members (~~of the task force~~
33 ~~in subsection (2) [(1)] of this section or~~) of the committee in
34 subsection (4) of this section who are not representing governmental
35 agencies or entities for their travel expenses in accordance with RCW
36 43.03.050 and 43.03.060.

37 NEW SECTION. **Sec. 857.** Broker's Trust Account Board. RCW
38 18.85.500 and 1987 c 513 s 8 are each repealed.

1 NEW SECTION. **Sec. 858.** Washington State Heritage Council. The
2 following acts or parts of acts are each repealed:

- 3 (1) RCW 27.34.030 and 1983 c 91 s 3;
- 4 (2) RCW 27.34.040 and 1993 c 101 s 11 & 1983 c 91 s 4; and
- 5 (3) RCW 27.34.050 and 1983 c 91 s 5.

6 NEW SECTION. **Sec. 859.** Supply Management Advisory Board. RCW
7 43.19.1902 and 1979 c 151 s 97, 1975-'76 2nd ex.s. c 21 s 3, 1967 ex.s.
8 c 104 s 3, & 1965 c 8 s 43.19.1902 are each repealed.

9 NEW SECTION. **Sec. 860.** Motor Vehicle Advisory Committee. RCW
10 43.19.556 and 1989 c 57 s 4 are each repealed.

11 NEW SECTION. **Sec. 861.** Ecological Commission. The following acts
12 or parts of acts are each repealed:

- 13 (1) RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217, 1988 c 36 s 15,
14 1985 c 466 s 50, 1979 c 141 s 68, & 1970 ex.s. c 62 s 17;
- 15 (2) RCW 43.21A.180 and 1984 c 287 s 76, 1975-'76 2nd ex.s. c 34 s
16 100, & 1970 ex.s. c 62 s 18;
- 17 (3) RCW 43.21A.190 and 1988 c 127 s 24 & 1970 ex.s. c 62 s 19;
- 18 (4) RCW 43.21A.200 and 1977 c 75 s 47 & 1970 ex.s. c 62 s 20; and
- 19 (5) RCW 43.21A.210 and 1970 ex.s. c 62 s 21.

20 NEW SECTION. **Sec. 862.** Nuclear Waste Advisory Council. RCW
21 43.200.050 and 1989 c 322 s 4, 1984 c 161 s 6, & 1983 1st ex.s. c 19 s
22 5 are each repealed.

23 NEW SECTION. **Sec. 863.** Athletic Health Care and Training Council.
24 The following acts or parts of acts are each repealed:

- 25 (1) RCW 43.230.010 and 1990 c 33 s 583 & 1984 c 286 s 2;
- 26 (2) RCW 43.230.020 and 1984 c 286 s 3;
- 27 (3) RCW 43.230.030 and 1984 c 286 s 4;
- 28 (4) RCW 43.230.040 and 1984 c 286 s 5; and
- 29 (5) 1984 c 286 s 13 (uncodified).

30 NEW SECTION. **Sec. 864.** Insurance Advisory Examining Board. RCW
31 48.17.135 and 1984 c 287 s 96, 1975-'76 2nd ex.s. c 34 s 142, & 1967 c
32 150 s 14 are each repealed.

1 NEW SECTION. **Sec. 865.** Right-to-Know Advisory Council. The
2 following acts or parts of acts are each repealed:

3 (1) RCW 49.70.120 and 1987 c 24 s 1, 1985 c 409 s 5, & 1984 c 289
4 s 17; and

5 (2) RCW 49.70.130 and 1984 c 289 s 18.

6 NEW SECTION. **Sec. 866.** Winter Recreation Commission. The
7 following acts or parts of acts are each repealed:

8 (1) RCW 67.34.011 and 1987 c 526 s 1; and

9 (2) RCW 67.34.021 and 1987 c 526 s 2.

10 NEW SECTION. **Sec. 867.** Science Advisory Board. RCW 70.94.039 and
11 1991 c 199 s 314 are each repealed.

12 NEW SECTION. **Sec. 868.** Korean War Veterans' Memorial Advisory
13 Committee. The following acts or parts of acts are each repealed:

14 (1) RCW 73.40.020 and 1984 c 81 s 2; and

15 (2) RCW 73.40.050 and 1989 c 235 s 2.

16 NEW SECTION. **Sec. 869.** Oil and Gas Conservation Committee. RCW
17 78.52.020 and 1988 c 128 s 49, 1983 c 253 s 31, 1971 ex.s. c 180 s 7,
18 1961 c 300 s 7, & 1951 c 146 s 4 are each repealed.

19 NEW SECTION. **Sec. 870.** Washington State Maritime Commission. The
20 following acts or parts of acts are each repealed, effective July 1,
21 1995:

22 (1) RCW 88.44.005 and 1990 c 117 s 1;

23 (2) RCW 88.44.010 and 1992 c 73 s 15, 1991 c 200 s 901, & 1990 c
24 117 s 2;

25 (3) RCW 88.44.020 and 1991 c 200 s 902 & 1990 c 117 s 3;

26 (4) RCW 88.44.030 and 1991 c 200 s 903 & 1990 c 117 s 4;

27 (5) RCW 88.44.040 and 1991 c 200 s 904 & 1990 c 117 s 5;

28 (6) RCW 88.44.080 and 1991 c 200 s 905 & 1990 c 117 s 9;

29 (7) RCW 88.44.090 and 1990 c 117 s 10;

30 (8) RCW 88.44.100 and 1992 c 73 s 16 & 1990 c 117 s 11;

31 (9) RCW 88.44.110 and 1992 c 73 s 17, 1991 c 200 s 906, & 1990 c
32 117 s 12;

33 (10) RCW 88.44.120 and 1990 c 117 s 13;

34 (11) RCW 88.44.130 and 1990 c 117 s 14;

- 1 (12) RCW 88.44.140 and 1990 c 117 s 15;
- 2 (13) RCW 88.44.150 and 1990 c 117 s 16;
- 3 (14) RCW 88.44.160 and 1991 c 200 s 907 & 1990 c 117 s 17;
- 4 (15) RCW 88.44.170 and 1990 c 117 s 18;
- 5 (16) RCW 88.44.180 and 1990 c 117 s 19;
- 6 (17) RCW 88.44.190 and 1990 c 117 s 20;
- 7 (18) RCW 88.44.200 and 1990 c 117 s 21;
- 8 (19) RCW 88.44.210 and 1990 c 117 s 22;
- 9 (20) RCW 88.44.220 and 1990 c 117 s 23;
- 10 (21) RCW 88.44.900 and 1990 c 117 s 24; and
- 11 (22) RCW 88.44.901 and 1990 c 117 s 25.

12 NEW SECTION. **Sec. 871.** Regional Marine Safety Committees. RCW
13 88.46.110 and 1992 c 73 s 24 & 1991 c 200 s 424 are each repealed.

14 NEW SECTION. **Sec. 872.** The legislature declares there has been an
15 excessive proliferation of boards and commissions within state
16 government. These boards and commissions are often created without
17 legislative review or input and without an assessment of whether there
18 is a resulting duplication of purpose or process. Once created, they
19 frequently duplicate the duties of existing governmental entities,
20 create additional expense, and obscure responsibility. It has been
21 difficult to control the growth of boards and commissions because of
22 the many special interests involved. Accordingly, the legislature
23 establishes the process in this chapter to eliminate redundant and
24 obsolete boards and commissions and to restrict the establishment of
25 new boards and commissions.

26 NEW SECTION. **Sec. 873.** A new section is added to chapter 43.41
27 RCW to read as follows:

28 (1) The governor shall conduct a review of all of the boards and
29 commissions identified under section 874 of this act and, by January
30 8th of every odd-numbered year, submit to the legislature a report
31 recommending which boards and commissions should be terminated or
32 consolidated based upon the criteria set forth in subsection (3) of
33 this section. The report must state which of the criteria were relied
34 upon with respect to each recommendation. The governor shall submit an
35 executive request bill by January 8th of every odd-numbered year to
36 implement the recommendations by expressly terminating the appropriate

1 boards and commissions and by providing for the transfer of duties and
2 obligations under this section. The governor shall accept and review
3 with special attention recommendations made, not later than June 1st of
4 each even-numbered year, by the standing committees of the legislature
5 in determining whether to include any board or commission in the report
6 and bill required by this section.

7 (2) In addition to terminations and consolidations under subsection
8 (1) of this section, the governor may recommend the transfer of duties
9 and obligations from a board or commission to another existing state
10 entity.

11 (3) In preparing his or her report and legislation, the governor
12 shall make an evaluation based upon answers to the questions set forth
13 in this subsection. The governor shall give these criteria priority in
14 the order listed.

15 (a) Has the mission of the board or commission been completed or
16 ceased to be critical to effective state government?

17 (b) Does the work of the board or commission directly affect public
18 safety, welfare, or health?

19 (c) Can the work of the board or commission be effectively done by
20 another state agency without adverse impact on public safety, welfare,
21 or health?

22 (d) Will termination of the board or commission have a significant
23 adverse impact on state revenue because of loss of federal funds?

24 (e) Will termination of the board or commission save revenues, be
25 cost neutral, or result in greater expenditures?

26 (f) Is the work of the board or commission being done by another
27 board, commission, or state agency?

28 (g) Could the work of the board or commission be effectively done
29 by a nonpublic entity?

30 (h) Will termination of the board or commission result in a
31 significant loss of expertise to state government?

32 (i) Will termination of the board or commission result in
33 operational efficiencies that are other than fiscal in nature?

34 (j) Could the work of the board or commission be done by an ad hoc
35 committee?

36 NEW SECTION. **Sec. 874.** The boards and commissions to be reviewed
37 by the governor must be all entities that are required to be included
38 in the list prepared by the office of financial management under RCW

1 43.88.505, other than entities established under: (1) Constitutional
2 mandate; (2) court order or rule; (3) requirement of federal law; or
3 (4) requirement as a condition of the state or a local government
4 receiving federal financial assistance if, in the judgment of the
5 governor, no other state agency, board, or commission would satisfy the
6 requirement.

7 NEW SECTION. **Sec. 875.** A new section is added to chapter 43.41
8 RCW to read as follows:

9 A new board or commission not established or required in statute
10 that must be included in the report required by RCW 43.88.505 may not
11 be established without the express approval of the director of
12 financial management. The director shall, by January 8th of each year,
13 submit to the legislature a list of those boards and commissions that
14 were requested for approval and those that were approved during the
15 preceding calendar year.

16 NEW SECTION. **Sec. 876.** A new section is added to chapter 43.41
17 RCW to read as follows:

18 When acting on a request to establish a new board or commission
19 under section 875 of this act, the director of the office of financial
20 management shall consider the following criteria giving priority in the
21 order listed:

22 (1) If approval is critical to public safety, health, or welfare or
23 to the effectiveness of state government;

24 (2) If approval will not result in duplication of the work or
25 responsibilities of another governmental agency;

26 (3) If approval will not have a significant impact on state
27 revenues;

28 (4) If approval is for a limited duration or on an ad hoc basis;

29 (5) If the work of the board or commission could be effectively
30 done by a nonpublic entity;

31 (6) If approval will result in significant enhancement of expertise
32 in state government; and

33 (7) If approval will result in operational efficiencies other than
34 fiscal savings.

35 NEW SECTION. **Sec. 877.** (1) Sections 872 through 876 of this act
36 are necessary for the immediate preservation of the public peace,

1 health, or safety, or support of the state government and its existing
2 public institutions, and shall take effect immediately.

3 NEW SECTION. **Sec. 878.** The Washington traffic safety commission
4 is hereby abolished and its powers, duties, and functions are hereby
5 transferred to the Washington state patrol.

6 NEW SECTION. **Sec. 879.** All reports, documents, surveys, books,
7 records, files, papers, or written material in the possession of the
8 Washington traffic safety commission shall be delivered to the custody
9 of the Washington state patrol. All cabinets, furniture, office
10 equipment, motor vehicles, and other tangible property employed by the
11 Washington traffic safety commission shall be made available to the
12 Washington state patrol. All funds, credits, or other assets held by
13 the Washington traffic safety commission shall be assigned to the
14 Washington state patrol.

15 Any appropriations made to the Washington traffic safety commission
16 shall, on the effective date of this section, be transferred and
17 credited to the Washington state patrol.

18 Whenever any question arises as to the transfer of any personnel,
19 funds, books, documents, records, papers, files, equipment, or other
20 tangible property used or held in the exercise of the powers and the
21 performance of the duties and functions transferred, the director of
22 financial management shall make a determination as to the proper
23 allocation and certify the same to the state agencies concerned.

24 NEW SECTION. **Sec. 880.** All employees of the Washington traffic
25 safety commission are transferred to the jurisdiction of the Washington
26 state patrol. All employees classified under chapter 41.06 RCW, the
27 state civil service law, are assigned to the Washington state patrol to
28 perform their usual duties upon the same terms as formerly, without any
29 loss of rights, subject to any action that may be appropriate
30 thereafter in accordance with the laws and rules governing state civil
31 service.

32 NEW SECTION. **Sec. 881.** All rules and all pending business before
33 the Washington traffic safety commission shall be continued and acted
34 upon by the Washington state patrol. All existing contracts and

1 obligations shall remain in full force and shall be performed by the
2 Washington state patrol.

3 NEW SECTION. **Sec. 882.** The transfer of the powers, duties,
4 functions, and personnel of the Washington traffic safety commission
5 shall not affect the validity of any act performed prior to the
6 effective date of this section.

7 NEW SECTION. **Sec. 883.** If apportionments of budgeted funds are
8 required because of the transfers directed by sections 879 through 882
9 of this act, the director of financial management shall certify the
10 apportionments to the agencies affected, the state auditor, and the
11 state treasurer. Each of these shall make the appropriate transfer and
12 adjustments in funds and appropriation accounts and equipment records
13 in accordance with the certification.

14 NEW SECTION. **Sec. 884.** Nothing contained in sections 878 through
15 883 of this act may be construed to alter any existing collective
16 bargaining unit or the provisions of any existing collective bargaining
17 agreement until the agreement has expired or until the bargaining unit
18 has been modified by action of the personnel board as provided by law.

19 NEW SECTION. **Sec. 885.** A new section is added to chapter 43.06
20 RCW to read as follows:

21 The governor shall be responsible for the administration of the
22 traffic safety program of the state and shall be the official of the
23 state having ultimate responsibility for dealing with the federal
24 government with respect to all programs and activities of the state and
25 local governments pursuant to the Highway Safety Act of 1966 (P.L. 89-
26 564; 80 Stat. 731). The governor is authorized and empowered to accept
27 and disburse federal grants or other funds or donations from any source
28 for the purpose of improving traffic safety programs in the state of
29 Washington, and is hereby empowered to contract and to do all other
30 things necessary in behalf of this state to secure the full benefits
31 available to this state under the federal Highway Safety Act of 1966
32 and in so doing, to cooperate with federal and state agencies, agencies
33 private and public, interested organizations, and with individuals, to
34 effectuate the purposes of that enactment, and any and all subsequent

1 amendments thereto. The governor shall be assisted in these duties and
2 responsibilities by the Washington state patrol.

3 NEW SECTION. **Sec. 886.** A new section is added to chapter 43.06
4 RCW to read as follows:

5 The governor shall be assisted in the duties and responsibilities
6 under section 885 of this act by the advisory committee on traffic
7 safety. The advisory committee on traffic safety shall be composed of
8 the governor as chair, the superintendent of public instruction, the
9 director of licensing, the secretary of transportation, the chief of
10 the state patrol, the secretary of health, the secretary of social and
11 health services, a representative of the association of Washington
12 cities to be appointed by the governor, a member of the Washington
13 state association of counties to be appointed by the governor, a
14 representative of the judiciary to be appointed by the governor, and
15 four public citizens representing traffic safety interests to be
16 appointed by the governor. In addition, appointments to any vacancies
17 among appointee members shall be as in the case of original
18 appointment.

19 The governor or any advisory committee member except those
20 appointed by the governor under this section may designate an employee
21 of his or her office or agency to act on his or her behalf during the
22 absence of the governor or member at one or more of the meetings of the
23 committee. The vote of the designee shall have the same effect as if
24 cast by the member if the designation is in writing and is presented to
25 the person presiding at the meetings included within the designation.

26 The governor may designate a member to preside during the
27 governor's absence.

28 The chief of the state patrol shall be responsible for convening
29 the committee and shall serve as secretary.

30 NEW SECTION. **Sec. 887.** A new section is added to chapter 43.06
31 RCW to read as follows:

32 The advisory committee on traffic safety shall provide assistance
33 and guidance in the development of the highway safety plan required
34 pursuant to the Highway Safety Act of 1966; develop recommendations for
35 the creation, revision, or enforcement of traffic safety laws; promote
36 programs to improve traffic safety; and advise and assist the governor
37 and the state patrol, as requested, in carrying out their duties and

1 responsibilities pertaining to the state's traffic safety program.
2 Staff support for the committee shall be provided by the state patrol.
3 The committee shall meet at least one time per year.

4 NEW SECTION. **Sec. 888.** A new section is added to chapter 43.43
5 RCW to read as follows:

6 In addition to other responsibilities set forth in this chapter the
7 state patrol shall:

8 (1) Assist the governor to carry out duties and responsibilities
9 pertaining to the traffic safety program of the state and the Highway
10 Safety Act of 1966 (P.L. 89-564; 80 Stat. 731) as provided in section
11 879 of this act;

12 (2) Advise and confer with the governing authority of any political
13 subdivision of the state deemed eligible under the federal Highway
14 Safety Act of 1966 for participation in the aims and programs and
15 purposes of that act;

16 (3) Advise and confer with all agencies of state government whose
17 programs and activities are within the scope of the Highway Safety Act
18 including those agencies that are not subject to direct supervision,
19 administration, and control by the governor under existing laws;

20 (4) Provide staff support to the advisory committee on traffic
21 safety as provided under section 887 of this act;

22 (5) Succeed to and be vested with all powers, duties, and
23 jurisdictions previously vested in the Washington traffic safety
24 commission;

25 (6) Carry out such other responsibilities as may be consistent with
26 section 889 of this act.

27 NEW SECTION. **Sec. 889.** A new section is added to chapter 43.43
28 RCW to read as follows:

29 The governor's traffic safety program as provided in section 885 of
30 this act shall be located in the office of the chief. As the agency
31 carrying out the governor's traffic safety program, the Washington
32 state patrol shall have the following responsibilities: To find
33 solutions to the problems that have been created as a result of the
34 tremendous increase of motor vehicles on our highways and the attendant
35 traffic death and accident tolls; to plan and supervise programs for
36 the prevention of accidents on streets and highways including but not
37 limited to educational campaigns designed to reduce traffic accidents

1 in cooperation with all official and unofficial organizations
2 interested in traffic safety; to coordinate the activities at the state
3 and local levels in the development of state-wide and local traffic
4 safety programs; to promote a uniform enforcement of traffic safety
5 laws and establish standards for investigation and reporting of traffic
6 accidents; to promote and improve driver education; and to authorize
7 the governor to perform all functions required to be performed under
8 the federal Highway Safety Act of 1966.

9 NEW SECTION. **Sec. 890.** A new section is added to chapter 43.43
10 RCW to read as follows:

11 The Washington state patrol shall submit a report each biennium
12 outlining programs planned and steps taken toward improving traffic
13 safety to the chair of the legislative transportation committee.

14 NEW SECTION. **Sec. 891.** A new section is added to chapter 43.43
15 RCW to read as follows:

16 The Washington state patrol shall produce and disseminate through
17 all possible media, informational and educational materials explaining
18 the extent of the problems caused by drinking drivers, the need for
19 public involvement in their solution, and the penalties of existing and
20 new laws against driving while under the influence of intoxicating
21 liquor or any drug.

22 **Sec. 892.** RCW 28A.170.050 and 1987 c 518 s 209 are each amended to
23 read as follows:

24 The superintendent of public instruction shall appoint a substance
25 abuse advisory committee comprised of: Representatives of certificated
26 and noncertificated staff; administrators; parents; students; school
27 directors; the bureau of alcohol and substance abuse within the
28 department of social and health services; the (~~traffic safety~~
29 ~~commission~~) Washington state patrol; and county coordinators of
30 alcohol and drug treatment. The committee shall advise the
31 superintendent on matters of local program development, coordination,
32 and evaluation.

33 **Sec. 893.** RCW 43.03.028 and 1993 c 281 s 45 and 1993 c 101 s 14
34 are each reenacted and amended to read as follows:

1 (1) There is hereby created a state committee on agency officials'
2 salaries to consist of seven members, or their designees, as follows:
3 The president of the University of Puget Sound; the chairperson of the
4 council of presidents of the state's four-year institutions of higher
5 education; the chairperson of the Washington personnel resources board;
6 the president of the Association of Washington Business; the president
7 of the Pacific Northwest Personnel Managers' Association; the president
8 of the Washington State Bar Association; and the president of the
9 Washington State Labor Council. If any of the titles or positions
10 mentioned in this subsection are changed or abolished, any person
11 occupying an equivalent or like position shall be qualified for
12 appointment by the governor to membership upon the committee.

13 (2) The committee shall study the duties and salaries of the
14 directors of the several departments and the members of the several
15 boards and commissions of state government, who are subject to
16 appointment by the governor or whose salaries are fixed by the
17 governor, and of the chief executive officers of the following agencies
18 of state government:

19 The arts commission; the human rights commission; the board of
20 accountancy; the board of pharmacy; the eastern Washington historical
21 society; the Washington state historical society; the interagency
22 committee for outdoor recreation; the criminal justice training
23 commission; the department of personnel; the state finance committee;
24 the state library; (~~the traffic safety commission;~~) the horse racing
25 commission; the advisory council on vocational education; the public
26 disclosure commission; the state conservation commission; the
27 commission on Hispanic affairs; the commission on Asian-American
28 affairs; the state board for volunteer fire fighters; the
29 transportation improvement board; the public employment relations
30 commission; the forest practices appeals board; and the energy
31 facilities site evaluation council.

32 The committee shall report to the governor or the chairperson of
33 the appropriate salary fixing authority at least once in each fiscal
34 biennium on such date as the governor may designate, but not later than
35 seventy-five days prior to the convening of each regular session of the
36 legislature during an odd-numbered year, its recommendations for the
37 salaries to be fixed for each position.

38 (3) Committee members shall be reimbursed by the department of
39 personnel for travel expenses under RCW 43.03.050 and 43.03.060.

1 **Sec. 894.** RCW 43.43.390 and 1991 c 214 s 1 are each amended to
2 read as follows:

3 Bicycling is increasing in popularity as a form of recreation and
4 as an alternative mode of transportation. To make bicycling safer, the
5 various law enforcement agencies should enforce traffic regulations for
6 bicyclists. By enforcing bicycle regulations, law enforcement officers
7 are reinforcing educational programs. Bicycling takes more skill than
8 most people realize. Since bicyclists have a low profile in traffic
9 and are unprotected, they need more defensive riding skills than
10 motorists do.

11 A bicycle awareness program is created within the Washington state
12 patrol. In developing the curriculum for the bicycle awareness program
13 the patrol shall consult with (~~the traffic safety commission and~~
14 ~~with~~) bicycling groups providing bicycle safety education. The patrol
15 shall conduct the program in conjunction with the safety education
16 officer program and may use other law enforcement personnel and
17 volunteers to implement the program for children in grades kindergarten
18 through six. The patrol shall ensure that each safety educator
19 presenting the bicycle awareness program has received specialized
20 training in bicycle safety education and has been trained in effective
21 defensive bicycle riding skills.

22 **Sec. 895.** RCW 43.70.410 and 1990 c 270 s 3 are each amended to
23 read as follows:

24 As used in RCW 43.70.400 through 43.70.440, the term "head injury"
25 means traumatic brain injury.

26 A head injury prevention program is created in the department of
27 health. The program's functions may be integrated with those of
28 similar programs to promote comprehensive, integrated, and effective
29 health promotion and disease prevention.

30 In consultation with the (~~traffic safety commission~~) Washington
31 state patrol, the department shall, directly or by contract, identify
32 and coordinate public education efforts currently underway within state
33 government and among private groups to prevent traumatic brain injury,
34 including, but not limited to, bicycle safety, pedestrian safety,
35 bicycle passenger seat safety, motorcycle safety, motor vehicle safety,
36 and sports safety. If the department finds that programs are not
37 available or not in use, it may, within funds appropriated for the
38 purpose, provide grants to promote public education efforts. Grants

1 may be awarded only after recipients have demonstrated coordination
2 with relevant and knowledgeable groups within their communities,
3 including at least schools, brain injury support organizations,
4 hospitals, physicians, traffic safety specialists, police, and the
5 public. The department may accept grants, gifts, and donations from
6 public or private sources to use to carry out the head injury
7 prevention program.

8 The department may assess or contract for the assessment of the
9 effectiveness of public education efforts coordinated or initiated by
10 any agency of state government. Agencies are directed to cooperate
11 with assessment efforts by providing access to data and program records
12 as reasonably required. The department may seek and receive additional
13 funds from the federal government or private sources for assessments.
14 Assessments shall contain findings and recommendations that will
15 improve the effectiveness of public education efforts. These findings
16 shall be distributed among public and private groups concerned with
17 traumatic brain injury prevention.

18 **Sec. 896.** RCW 43.70.420 and 1990 c 270 s 4 are each amended to
19 read as follows:

20 The department of health, the department of licensing, and the
21 (~~traffic safety commission~~) Washington state patrol shall jointly
22 prepare information for driver license manuals, driver education
23 programs, and driving tests to increase driver awareness of pedestrian
24 safety, to increase driver skills in avoiding pedestrian and motor
25 vehicle accidents, and to determine drivers' abilities to avoid
26 pedestrian motor vehicle accidents.

27 **Sec. 897.** RCW 44.40.070 and 1988 c 167 s 10 are each amended to
28 read as follows:

29 Prior to October 1st of each even-numbered year all state agencies
30 whose major programs consist of transportation activities, including
31 the department of transportation, the utilities and transportation
32 commission, the transportation improvement board, the Washington state
33 patrol, the department of licensing, (~~the traffic safety commission,~~)
34 the county road administration board, and the board of pilotage
35 commissioners, shall adopt or revise, after consultation with the
36 legislative transportation committee, a comprehensive six-year program

1 and financial plan for all transportation activities under each
2 agency's jurisdiction.

3 The comprehensive six-year program and financial plan shall state
4 the general objectives and needs of each agency's major transportation
5 programs, including workload and performance estimates.

6 **Sec. 898.** RCW 46.01.030 and 1990 c 250 s 14 are each amended to
7 read as follows:

8 The department shall be responsible for administering and
9 recommending the improvement of the motor vehicle laws of this state
10 relating to:

- 11 (1) driver examining and licensing;
- 12 (2) driver improvement;
- 13 (3) driver records;
- 14 (4) financial responsibility;
- 15 (5) certificates of ownership;
- 16 (6) certificates of license registration and license plates;
- 17 (7) proration and reciprocity;
- 18 (8) liquid fuel tax collections;
- 19 (9) licensing of dealers, motor vehicle transporters, motor vehicle
20 wreckers, for hire vehicles, and drivers' schools;
- 21 (10) general highway safety promotion in cooperation with the
22 Washington state patrol (~~(and traffic safety commission)~~);
- 23 (11) such other activities as the legislature may provide.

24 **Sec. 899.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to
25 read as follows:

26 (1) The director shall keep a case record on every motor vehicle
27 driver licensed under the laws of this state, together with information
28 on each driver, showing all the convictions and findings of traffic
29 infractions certified by the courts, together with an index cross-
30 reference record of each accident reported relating to such individual
31 with a brief statement of the cause of the accident. The chief of the
32 Washington state patrol shall furnish the index cross-reference record
33 to the director, with reference to each driver involved in the reported
34 accidents.

35 (2) The records shall be for the confidential use of the director,
36 the chief of the Washington state patrol, (~~(the director of the~~
37 ~~Washington traffic safety commission)~~), and for such police officers or

1 other cognizant public officials as may be designated by law. Such
2 case records shall not be offered as evidence in any court except in
3 case appeal is taken from the order of the director, suspending,
4 revoking, canceling, or refusing a vehicle driver's license.

5 (3) The director shall tabulate and analyze vehicle driver's case
6 records and suspend, revoke, cancel, or refuse a vehicle driver's
7 license to a person when it is deemed from facts contained in the case
8 record of such person that it is for the best interest of public safety
9 that such person be denied the privilege of operating a motor vehicle.
10 Whenever the director orders the vehicle driver's license of any such
11 person suspended, revoked, or canceled, or refuses the issuance of a
12 vehicle driver's license, such suspension, revocation, cancellation, or
13 refusal is final and effective unless appeal from the decision of the
14 director is taken as provided by law.

15 **Sec. 900.** RCW 46.82.300 and 1984 c 287 s 93 are each amended to
16 read as follows:

17 (1) The director shall be assisted in the duties and
18 responsibilities of this chapter by the driver instructors' advisory
19 committee, consisting of five members. Members of the advisory
20 committee shall be appointed by the director for two-year terms and
21 shall consist of a representative of the driver training schools, a
22 representative of the driving instructors (who shall not be from the
23 same school as the school member), a representative of the
24 superintendent of public instruction, a representative of the
25 department of licensing, and a representative from the Washington state
26 (~~traffic safety commission~~) patrol. Members shall be reimbursed for
27 travel expenses in accordance with RCW 43.03.050 and 43.03.060. A
28 member who is receiving a salary from the state shall not receive
29 compensation other than travel expenses incurred in such service.

30 (2) The advisory committee shall meet at least semiannually and
31 shall have additional meetings as may be called by the director. The
32 director or the director's representative shall attend all meetings of
33 the advisory committee and shall serve as chairman.

34 (3) Duties of the advisory committee shall be to:

35 (a) Advise and confer with the director or the director's
36 representative on matters pertaining to the establishment of rules
37 necessary to carry out this chapter;

1 (b) Review violations of this chapter and to recommend to the
2 director appropriate enforcement or disciplinary action as provided in
3 this chapter;

4 (c) Review and update when necessary a curriculum consisting of a
5 list of items of knowledge and the processes of driving a motor vehicle
6 specifying the minimum requirements adjudged necessary in teaching a
7 proper and adequate course of driver education; and

8 (d) Prepare the examination for a driver instructor's certificate
9 and review examination results at least once each calendar year for the
10 purpose of updating and revising examination standards.

11 **Sec. 901.** RCW 46.90.010 and 1993 c 400 s 2 are each amended to
12 read as follows:

13 In consultation with the chief of the Washington state patrol (~~and~~
14 ~~the traffic safety commission~~), the director shall adopt in accordance
15 with chapter 34.05 RCW a model traffic ordinance for use by any city,
16 town, or county. The addition of any new section to, or amendment or
17 repeal of any section in, the model traffic ordinance is deemed to
18 amend any city, town, or county, ordinance which has adopted by
19 reference the model traffic ordinance or any part thereof, and it shall
20 not be necessary for the legislative authority of any city, town, or
21 county to take any action with respect to such addition, amendment, or
22 repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140,
23 35A.13.180, and 36.32.120(7).

24 **Sec. 902.** RCW 47.01.250 and 1990 c 266 s 5 are each amended to
25 read as follows:

26 The chief of the Washington state patrol, (~~the director of the~~
27 ~~traffic safety commission,~~) the executive director of the county road
28 administration board, and the director of licensing are designated as
29 official consultants to the transportation commission so that the goals
30 and activities of their respective agencies which relate to
31 transportation are fully coordinated with other related
32 responsibilities of the department of transportation. In this
33 capacity, the chief of the Washington state patrol, (~~the director of~~
34 ~~the traffic safety commission,~~) the executive director of the county
35 road administration board, and the director of licensing shall consult
36 with the transportation commission and the secretary of transportation
37 on the implications and impacts on the transportation related functions

1 and duties of their respective agencies of any proposed comprehensive
2 transportation plan, program, or policy.

3 In order to develop fully integrated, balanced, and coordinated
4 transportation plans, programs, and budgets the chief of the Washington
5 state patrol, (~~the director of the traffic safety commission,~~) the
6 executive director of the county road administration board, and the
7 director of licensing shall consult with the secretary of
8 transportation on the matter of relative priorities during the
9 development of their respective agencies' plans, programs, and budgets
10 as they pertain to transportation activities. The secretary of
11 transportation shall provide written comments to the governor and the
12 legislature on the extent to which the state patrol's, (~~the traffic
13 safety commission's,~~) the county road administration board's, and the
14 department of licensing's final plans, programs, and budgets are
15 compatible with the priorities established in the department of
16 transportation's final plans, programs, and budgets.

17 NEW SECTION. **Sec. 903.** The following acts or parts of acts are
18 each repealed:

19 (1) RCW 43.59.010 and 1967 ex.s. c 147 s 1;

20 (2) RCW 43.59.020 and 1967 ex.s. c 147 s 2;

21 (3) RCW 43.59.030 and 1991 c 3 s 298, 1982 c 30 s 1, 1979 c 158 s
22 105, 1971 ex.s. c 85 s 7, 1969 ex.s. c 105 s 1, & 1967 ex.s. c 147 s 3;

23 (4) RCW 43.59.040 and 1983 1st ex.s. c 14 s 1 & 1967 ex.s. c 147 s
24 4;

25 (5) RCW 43.59.050 and 1975-'76 2nd ex.s. c 34 s 120 & 1967 ex.s. c
26 147 s 6;

27 (6) RCW 43.59.060 and 1967 ex.s. c 147 s 7;

28 (7) RCW 43.59.070 and 1967 ex.s. c 147 s 8;

29 (8) RCW 43.59.080 and 1967 ex.s. c 147 s 9;

30 (9) RCW 43.59.130 and 1987 c 505 s 31, 1971 ex.s. c 195 s 5, & 1967
31 ex.s. c 147 s 14; and

32 (10) RCW 43.59.140 and 1991 c 290 s 4 & 1983 c 165 s 42.

33 NEW SECTION. **Sec. 904.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 905.** Headings and captions used in this act
2 constitute no part of the law.

3 NEW SECTION. **Sec. 906.** This act takes effect July 1, 1994.

--- **END** ---