
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1395

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Conway and Condotta; by request of Department of Licensing)

READ FIRST TIME 01/26/06.

1 AN ACT Relating to the uniform regulation of business and
2 professions; amending RCW 18.140.160, 18.185.110, 18.185.120,
3 19.16.410, 18.220.040, 18.220.130, 18.220.140, 18.165.170, 18.170.180,
4 18.235.005, 18.235.010, 18.235.020, 18.235.040, 18.235.050, 18.235.080,
5 18.235.090, 18.235.100, 18.235.110, 18.235.130, 18.235.150, and
6 18.235.210; and repealing RCW 18.140.175 and 18.85.343.

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

8 **Sec. 1.** RCW 18.140.160 and 2005 c 339 s 14 are each amended to
9 read as follows:

10 In addition to the unprofessional conduct described in RCW
11 18.235.130, the director may take disciplinary action for the following
12 conduct, acts, or conditions:

13 (1) Failing to meet the minimum qualifications for state
14 certification, licensure, or registration established by or pursuant to
15 this chapter;

16 (2) Paying money other than the fees provided for by this chapter
17 to any employee of the director or the commission to procure state
18 certification, licensure, or registration under this chapter;

1 (3) Continuing to act as a state-certified real estate appraiser,
2 state-licensed real estate appraiser, or state-registered appraiser
3 trainee when his or her certificate, license, or registration is on an
4 expired status;

5 (4) Violating any provision of this chapter or any lawful rule made
6 by the director pursuant thereto;

7 (5) Issuing an appraisal report on any real property in which the
8 appraiser has an interest unless his or her interest is clearly stated
9 in the appraisal report; ~~((and))~~

10 (6) Being affiliated as an employer, independent contractor, or
11 supervisory appraiser of a state-certified real estate appraiser,
12 state-licensed real estate appraiser, or state-registered appraiser
13 trainee whose certification, license, or registration is currently in
14 a suspended or revoked status;

15 (7) Failure or refusal without good cause to exercise reasonable
16 diligence in performing an appraisal practice under this chapter,
17 including preparing an oral or written report to communicate
18 information concerning an appraisal practice; and

19 (8) Negligence or incompetence in performing an appraisal practice
20 under this chapter, including preparing an oral or written report to
21 communicate information concerning an appraisal practice.

22 **Sec. 2.** RCW 18.185.110 and 2004 c 186 s 9 are each amended to read
23 as follows:

24 In addition to the unprofessional conduct described in RCW
25 18.235.130, the following conduct, acts, or conditions constitute
26 unprofessional conduct:

27 (1) Violating any of the provisions of this chapter or the rules
28 adopted under this chapter;

29 (2) Failing to meet the qualifications set forth in RCW 18.185.020
30 ~~((and))~~, 18.185.030, and 18.185.250;

31 (3) Knowingly committing, or being a party to, any material fraud,
32 misrepresentation, concealment, conspiracy, collusion, trick, scheme,
33 or device whereby any other person lawfully relies upon the word,
34 representation, or conduct of the licensee. However, this subsection
35 (3) does not prevent a bail bond recovery agent from using any pretext
36 to locate or apprehend a fugitive criminal defendant or gain any
37 information regarding the fugitive;

1 (4) Assigning or transferring any license issued pursuant to the
2 provisions of this chapter, except as provided in RCW 18.185.030 or
3 18.185.250;

4 (5) Conversion of any money or contract, deed, note, mortgage, or
5 other evidence of title, to his or her own use or to the use of his or
6 her principal or of any other person, when delivered to him or her in
7 trust or on condition, in violation of the trust or before the
8 happening of the condition; and failure to return any money or
9 contract, deed, note, mortgage, or other evidence of title within
10 thirty days after the owner is entitled to possession, and makes demand
11 for possession, shall be prima facie evidence of conversion;

12 (6) Failing to keep records, maintain a trust account, or return
13 collateral or security, as required by RCW 18.185.100;

14 (7) Any conduct in a bail bond transaction which demonstrates bad
15 faith, dishonesty, or untrustworthiness;

16 (8) Violation of an order to cease and desist that is issued by the
17 director under (~~this~~) chapter 18.235 RCW;

18 (9) Wearing, displaying, holding, or using badges not approved by
19 the department;

20 (10) Making any statement that would reasonably cause another
21 person to believe that the bail bond recovery agent is a sworn peace
22 officer;

23 (11) Failing to carry a copy of the contract or to present a copy
24 of the contract as required under RCW 18.185.270(1);

25 (12) Using the services of an unlicensed bail bond recovery agent
26 or using the services of a bail bond recovery agent without issuing the
27 proper contract;

28 (13) Misrepresenting or knowingly making a material misstatement or
29 omission in the application for a license;

30 (14) Using the services of a person performing the functions of a
31 bail bond recovery agent who has not been licensed by the department as
32 required by this chapter; or

33 (15) Performing the functions of a bail bond recovery agent without
34 being both (a) licensed under this chapter or supervised by a licensed
35 bail bond recovery agent under RCW 18.185.290; and (b) under contract
36 with a bail bond agent.

1 **Sec. 3.** RCW 18.185.120 and 2002 c 86 s 252 are each amended to
2 read as follows:

3 In addition to those powers set forth in RCW 18.235.030, the
4 director or the director's designee has the authority:

- 5 (1) To order restitution to the person harmed by the licensee; or
- 6 (2) To enter into an assurance of discontinuance in lieu of issuing
7 a statement of charges or conducting a hearing. The assurance shall
8 consist of a statement of the law in question and an agreement to not
9 violate the stated provision. The applicant or license holder shall
10 not be required to admit to any violation of the law, and the assurance
11 shall not be construed as such an admission. Violation of an assurance
12 under this subsection is grounds for disciplinary action.

13 **Sec. 4.** RCW 19.16.410 and 1971 ex.s. c 253 s 32 are each amended
14 to read as follows:

15 The ~~((director))~~ board may ~~((promulgate))~~ adopt rules, make
16 specific decisions, orders, and rulings, including therein demands and
17 findings, and take other necessary action for the implementation and
18 enforcement of ~~((his))~~ the board's duties under this chapter.

19 **Sec. 5.** RCW 18.220.040 and 2002 c 86 s 261 are each amended to
20 read as follows:

21 The director has the following authority in administering this
22 chapter:

- 23 (1) To adopt, amend, and rescind rules approved by the board as
24 deemed necessary to carry out this chapter;
- 25 (2) To adopt fees as provided in RCW 43.24.086;
- 26 (3) To administer licensing examinations approved by the board and
27 to adopt or recognize examinations prepared by other organizations as
28 approved by the board; and
- 29 (4) To adopt standards of professional conduct and practice as
30 approved by the board(~~((and~~
- 31 ~~((5) To enter into an assurance of discontinuance in lieu of issuing~~
32 ~~a statement of charges or conducting a hearing. The assurance shall~~
33 ~~consist of a statement of the law in question and an agreement to not~~
34 ~~violate the stated provision. Violation of an assurance under this~~
35 ~~subsection is grounds for disciplinary action))~~).

1 **Sec. 6.** RCW 18.220.130 and 2002 c 86 s 263 are each amended to
2 read as follows:

3 In addition to the unprofessional conduct described in RCW
4 18.235.130, the following conduct, acts, and conditions constitute
5 unprofessional conduct:

6 (1) Violating any of the provisions of this chapter or the rules
7 adopted under this chapter;

8 (2) Not meeting the qualifications for licensing set forth by this
9 chapter; or

10 (3) ~~((Failure to comply with an assurance of discontinuance entered
11 into with the director; or~~

12 (4)) Committing any other act, or failing to act, which act or
13 failure are customarily regarded as being contrary to the accepted
14 professional conduct or standard generally expected of those practicing
15 geology.

16 **Sec. 7.** RCW 18.220.140 and 2000 c 253 s 15 are each amended to
17 read as follows:

18 The procedures governing adjudicative proceedings before agencies
19 under chapter 34.05 RCW govern all hearings before the ~~((director or
20 his or her designee))~~ board. Upon a finding that a license holder or
21 applicant has committed unprofessional conduct, the ~~((director))~~ board
22 may issue an order providing for one or any combination of the
23 following:

24 (1) Revocation of the license;

25 (2) Suspension of the license for a fixed or indefinite term;

26 (3) Restriction or limitation of the practice;

27 (4) Issuance of a civil fine not to exceed five thousand dollars
28 for each violation;

29 (5) Requiring satisfactory completion of a specific program of
30 remedial education or treatment;

31 (6) Monitoring of the practice by a peer approved by the director;

32 (7) Reprimand or censure;

33 (8) Compliance with conditions of probation for a designated period
34 of time;

35 (9) Withholding of a license request;

36 (10) Refund of fees billed to and collected from the consumer; or

37 (11) Other corrective action.

1 Any of the actions under this section may be totally or partly
2 stayed by the (~~director~~) board. All costs associated with compliance
3 with orders issued under this section are the obligation of the license
4 holder or applicant.

5 **Sec. 8.** RCW 18.165.170 and 2002 c 86 s 246 are each amended to
6 read as follows:

7 The director or the director's designee has the following authority
8 in administering this chapter:

9 (1) To adopt, amend, and rescind rules as deemed necessary to carry
10 out this chapter;

11 (2) To enter into contracts for professional services determined to
12 be necessary for adequate enforcement of this chapter;

13 (3) To adopt standards of professional conduct or practice;

14 (4) To enter into an assurance of discontinuance in lieu of issuing
15 a statement of charges or conducting a hearing. The assurance shall
16 consist of a statement of the law in question and an agreement to not
17 violate the stated provision. The applicant or license holder shall
18 not be required to admit to any violation of the law, and the assurance
19 shall not be construed as such an admission. Violation of an assurance
20 under this subsection is grounds for disciplinary action; and

21 (5) To employ such administrative and clerical staff as necessary
22 for the enforcement of this chapter.

23 **Sec. 9.** RCW 18.170.180 and 2002 c 86 s 249 are each amended to
24 read as follows:

25 The director or the director's designee has the following authority
26 in administering this chapter:

27 (1) To adopt, amend, and rescind rules as deemed necessary to carry
28 out this chapter;

29 (2) To adopt standards of professional conduct or practice;

30 (3) To enter into an assurance of discontinuance in lieu of issuing
31 a statement of charges or conducting a hearing. The assurance shall
32 consist of a statement of the law in question and an agreement to not
33 violate the stated provision. The applicant or license holder shall
34 not be required to admit to any violation of the law, and the assurance
35 shall not be construed as such an admission. Violation of an assurance
36 under this subsection is grounds for disciplinary action; and

1 (4) To employ such administrative and clerical staff as necessary
2 for the enforcement of this chapter.

3 **Sec. 10.** RCW 18.235.005 and 2002 c 86 s 101 are each amended to
4 read as follows:

5 It is the intent of the legislature to consolidate disciplinary
6 procedures for the licensed businesses and professions (~~(under the~~
7 ~~business and professions division))~~) of the department of licensing by
8 providing a uniform disciplinary act (~~(for businesses and professions))~~)
9 with standardized procedures for the regulation of businesses and
10 professions and the enforcement of laws, the purpose of which is to
11 assure the public of the adequacy of business and professional
12 competence and conduct.

13 It is also the intent of the legislature that all businesses and
14 professions newly credentialed by the state and regulated by the
15 (~~(business and professions division of the))~~) department of licensing
16 come under this chapter.

17 **Sec. 11.** RCW 18.235.010 and 2002 c 86 s 102 are each amended to
18 read as follows:

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

21 (1) "Board" means those boards specified in RCW 18.235.020(2)(b).

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

23 (3) "Director" means the director of the department or director's
24 designee.

25 (4) "Disciplinary action" means sanctions identified in RCW
26 18.235.110.

27 (5) "Disciplinary authority" means the director, board, or
28 commission having the authority to take disciplinary action against a
29 holder of, or applicant for, a professional or business license upon a
30 finding of a violation of this chapter or a chapter specified under RCW
31 18.235.020.

32 (6) "License," "licensing," and "licensure" are deemed equivalent
33 to the terms "license," "licensing," "licensure," "certificate,"
34 "certification," and "registration" as those terms are defined in RCW
35 18.118.020. Each of these terms, and the term "appointment" under

1 chapter 42.44 RCW, are interchangeable under the provisions of this
2 chapter.

3 (7) "Unlicensed practice" means:

4 (a) Practicing a profession or operating a business identified in
5 RCW 18.235.020 without holding a valid, unexpired, unrevoked, and
6 unsuspended license to do so; or

7 (b) Representing to a (~~consumer~~) person, through offerings,
8 advertisements, or use of a professional title or designation, that the
9 individual or business is qualified to practice a profession or operate
10 a business identified in RCW 18.235.020 without holding a valid,
11 unexpired, unrevoked, and unsuspended license to do so.

12 **Sec. 12.** RCW 18.235.020 and 2002 c 86 s 103 are each amended to
13 read as follows:

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

19 (2)(a) The director has authority under this chapter in relation to
20 the following businesses and professions:

- 21 (i) Auctioneers under chapter 18.11 RCW;
- 22 (ii) Bail bond agents and bail bond recovery agents under chapter
23 18.185 RCW;
- 24 (iii) Camping resorts' operators and salespersons under chapter
25 19.105 RCW;
- 26 (iv) Commercial telephone solicitors under chapter 19.158 RCW;
- 27 (v) Cosmetologists, barbers, manicurists, and estheticians under
28 chapter 18.16 RCW;
- 29 (vi) Court reporters under chapter 18.145 RCW;
- 30 (vii) Employment agencies under chapter 19.31 RCW;
- 31 (viii) For hire vehicle operators under chapter 46.72 RCW;
- 32 (ix) Limousines under chapter 46.72A RCW;
- 33 (x) Notaries public under chapter 42.44 RCW;
- 34 (xi) Private investigators under chapter 18.165 RCW;
- 35 (xii) Professional boxing, martial arts, and wrestling under
36 chapter 67.08 RCW;
- 37 (xiii) Real estate appraisers under chapter 18.140 RCW;

1 (xiv) Real estate brokers and salespersons under chapters 18.85 and
2 18.86 RCW;

3 (xv) Security guards under chapter 18.170 RCW;

4 (xvi) Sellers of travel under chapter 19.138 RCW;

5 (xvii) Timeshares and timeshare salespersons under chapter 64.36
6 RCW; and

7 (xviii) Whitewater river outfitters under chapter 79A.60 RCW.

8 (b) The boards and commissions having authority under this chapter
9 are as follows:

10 (i) The state board of registration for architects established in
11 chapter 18.08 RCW;

12 (ii) The cemetery board established in chapter 68.05 RCW;

13 (iii) The Washington state collection agency board established in
14 chapter 19.16 RCW;

15 (iv) The state board of registration for professional engineers and
16 land surveyors established in chapter 18.43 RCW governing licenses
17 issued under chapters 18.43 and 18.210 RCW;

18 (v) The state board of funeral directors and embalmers established
19 in chapter 18.39 RCW;

20 (vi) The state board of registration for landscape architects
21 established in chapter 18.96 RCW; and

22 (vii) The state geologist licensing board established in chapter
23 18.220 RCW.

24 (3) In addition to the authority to discipline license holders, the
25 disciplinary authority may grant or deny licenses based on the
26 conditions and criteria established in this chapter and the chapters
27 specified in subsection (2) of this section. This chapter also governs
28 any investigation, hearing, or proceeding relating to denial of
29 licensure or issuance of a license conditioned on the applicant's
30 compliance with an order entered under RCW 18.235.110 by the
31 disciplinary authority.

32 **Sec. 13.** RCW 18.235.040 and 2002 c 86 s 105 are each amended to
33 read as follows:

34 (~~In addition to the authority specified in RCW 18.235.030,~~) The
35 director has the following additional authority:

36 (1) To employ investigative, administrative, and clerical staff as

1 necessary for the enforcement of this chapter, except as provided
2 otherwise by statute;

3 (2) Upon request of a board or commission, to appoint not more than
4 three pro tem members as provided in this subsection. Individuals
5 appointed as pro tem members of a board or commission must meet the
6 same minimum qualifications as regular members of the board or
7 commission. While serving as a pro tem board or commission member, a
8 person so appointed has all the powers, duties, and immunities, and is
9 entitled to the entitlements, including travel expenses in accordance
10 with RCW 43.03.050 and 43.03.060, of a regular member of the board or
11 commission; and

12 (3) To establish fees to be paid for witnesses, expert witnesses,
13 and consultants used in any investigation or adjudicative proceedings
14 as authorized by RCW 34.05.446.

15 **Sec. 14.** RCW 18.235.050 and 2002 c 86 s 106 are each amended to
16 read as follows:

17 (1) If the disciplinary authority determines, upon investigation,
18 that there is reason to believe a violation of RCW 18.235.130 has
19 occurred or a minimum eligibility criteria for licensure is not met, a
20 statement of charge or charges or statement of intent to deny may be
21 prepared and served upon the license holder or applicant for a license.
22 The statement of charge or charges or statement of intent to deny must
23 be accompanied by a notice that the license holder or applicant may
24 request a hearing to contest the charge ~~((or))~~, charges, or intent to
25 deny. The license holder or applicant must file a request for a
26 hearing with the disciplinary authority within twenty days after being
27 served the statement of charges or statement of intent to deny. The
28 failure to request a hearing constitutes a default, whereupon the
29 disciplinary authority may enter a decision on the facts available to
30 it.

31 (2) If a hearing is requested, the time of the hearing must be
32 fixed by the disciplinary authority as soon as convenient, but the
33 hearing may not be held earlier than thirty days after service of
34 charges or intent to deny upon the license holder or applicant, unless
35 the disciplinary authority has issued a summary suspension or summary
36 restriction, for which a hearing may be held sooner than thirty days
37 after service of charges.

1 **Sec. 15.** RCW 18.235.080 and 2002 c 86 s 109 are each amended to
2 read as follows:

3 An order pursuant to proceedings authorized by this chapter, after
4 due notice and findings in accordance with this chapter and chapter
5 34.05 RCW, or an order of summary suspension entered under this
6 chapter, takes effect immediately upon its being served. The final
7 order, if appealed to the court, may not be stayed pending the appeal
8 unless the disciplinary authority or court to which the appeal is taken
9 enters an order staying the order of the disciplinary authority, which
10 stay shall provide for terms necessary to protect the public.

11 **Sec. 16.** RCW 18.235.090 and 2002 c 86 s 110 are each amended to
12 read as follows:

13 (~~An individual~~) A person who has been disciplined or (~~whose~~
14 ~~license~~) has been denied a license by a disciplinary authority may
15 appeal the decision as provided in chapter 34.05 RCW.

16 **Sec. 17.** RCW 18.235.100 and 2002 c 86 s 111 are each amended to
17 read as follows:

18 A person whose license has been suspended or revoked under this
19 chapter may petition the disciplinary authority for reinstatement after
20 an interval of time and upon conditions determined by the disciplinary
21 authority in the order suspending or revoking the license. The
22 disciplinary authority shall act on the petition in accordance with the
23 adjudicative proceedings provided under chapter 34.05 RCW and may
24 impose such conditions as authorized by RCW 18.235.110. The
25 disciplinary authority may require successful completion of an
26 examination as (~~+~~) a condition of reinstatement.

27 **Sec. 18.** RCW 18.235.110 and 2002 c 86 s 112 are each amended to
28 read as follows:

29 (1) Upon finding unprofessional conduct, the disciplinary authority
30 may issue an order providing for one or any combination of the
31 following:

- 32 (a) Revocation of the license for an interval of time;
- 33 (b) Suspension of the license for a fixed or indefinite term;
- 34 (c) Restriction or limitation of the practice;

1 (d) Satisfactory completion of a specific program of remedial
2 education or treatment;

3 (e) Monitoring of the practice in a manner directed by the
4 disciplinary authority;

5 (f) Censure or reprimand;

6 (g) Compliance with conditions of probation for a designated period
7 of time;

8 (h) Payment of a fine for each violation found by the disciplinary
9 authority, not to exceed five thousand dollars per violation. The
10 disciplinary authority must consider aggravating or mitigating
11 circumstances in assessing any fine. Funds received must be deposited
12 in the related program account;

13 (i) Denial of an initial or renewal license application for an
14 interval of time; or

15 (j) Other corrective action.

16 (2) The disciplinary authority may require reimbursement to the
17 disciplinary authority for the investigative costs incurred in
18 investigating the matter that resulted in issuance of an order under
19 this section, but only if any of the sanctions in subsection (1)(a)
20 through (j) of this section is ordered.

21 (3) Any of the actions under this section may be totally or partly
22 stayed by the disciplinary authority. In determining what action is
23 appropriate, the disciplinary authority must first consider what
24 sanctions are necessary to protect the public health, safety, or
25 welfare. Only after these provisions have been made may the
26 disciplinary authority consider and include in the order requirements
27 designed to rehabilitate the license holder or applicant. All costs
28 associated with compliance with orders issued under this section are
29 the obligation of the license holder or applicant.

30 (4) The licensee or applicant may enter into a stipulated
31 disposition of charges that includes one or more of the sanctions of
32 this section, but only after a statement of charges has been issued and
33 the licensee has been afforded the opportunity for a hearing and has
34 elected on the record to forego such a hearing. The stipulation shall
35 either contain one or more specific findings of unprofessional conduct
36 or a statement by the licensee acknowledging that evidence is
37 sufficient to justify one or more specified findings of unprofessional

1 conduct. The stipulations entered into under this subsection are
2 considered formal disciplinary action for all purposes.

3 **Sec. 19.** RCW 18.235.130 and 2002 c 86 s 114 are each amended to
4 read as follows:

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

8 (1) The commission of any act involving moral turpitude,
9 dishonesty, or corruption relating to the practice of the person's
10 profession or operation of the person's business, whether the act
11 constitutes a crime or not. At the disciplinary hearing a certified
12 copy of a final holding of any court of competent jurisdiction is
13 conclusive evidence of the conduct of the license holder or applicant
14 upon which the final holding is based. Upon a conviction, however, the
15 judgment and sentence is conclusive evidence at the ensuing
16 disciplinary hearing of the guilt of the license holder or applicant of
17 the crime described in the indictment or information, and of the
18 person's violation of the statute on which it is based. For the
19 purposes of this ~~((section))~~ subsection, conviction includes all
20 instances in which a plea of guilty or nolo contendere is the basis for
21 the conviction and all proceedings in which the sentence has been
22 deferred or suspended. Except as specifically provided by law, nothing
23 in this ~~((section))~~ subsection abrogates the provisions of chapter
24 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is
25 required to register as a sex offender under RCW 9A.44.130;

26 (2) Misrepresentation or concealment of a material fact in
27 obtaining or renewing a license or in reinstatement thereof;

28 (3) Advertising that is false, deceptive, or misleading;

29 (4) Incompetence, negligence, or malpractice that results in harm
30 or damage to ~~((a consumer))~~ another or that creates an unreasonable
31 risk ~~((that a consumer may be harmed or damaged))~~ of harm or damage to
32 another;

33 (5) The suspension, revocation, or restriction of a license to
34 engage in any business or profession by competent authority in any
35 state, federal, or foreign jurisdiction. A certified copy of the
36 order, stipulation, or agreement is conclusive evidence of the
37 revocation, suspension, or restriction;

1 (6) Failure to cooperate with the disciplinary authority in the
2 course of an investigation, audit, or inspection authorized by law by:

3 (a) Not furnishing any papers or documents requested by the
4 disciplinary authority;

5 (b) Not furnishing in writing an explanation covering the matter
6 contained in a complaint when requested by the disciplinary authority;

7 (c) Not responding to a subpoena issued by the disciplinary
8 authority, whether or not the recipient of the subpoena is the accused
9 in the proceeding; or

10 (d) Not providing authorized access, during regular business hours,
11 to representatives of the disciplinary authority conducting an
12 investigation, inspection, or audit at facilities utilized by the
13 license holder or applicant;

14 (7) Failure to comply with an order issued by the disciplinary
15 authority;

16 (8) Violating any (~~lawful rule~~) of the provisions of this chapter
17 or the chapters specified in RCW 18.235.020(2) or any rules made by the
18 disciplinary authority under the chapters specified in RCW
19 18.235.020(2);

20 (9) Aiding or abetting an unlicensed person to practice or operate
21 a business or profession when a license is required;

22 (10) Practice or operation of a business or profession beyond the
23 scope of practice or operation as defined by law or rule;

24 (11) Misrepresentation in any aspect of the conduct of the business
25 or profession;

26 (12) Failure to adequately supervise or oversee auxiliary staff,
27 whether employees or contractors, to the extent that consumers may be
28 harmed or damaged;

29 (13) Conviction of any gross misdemeanor or felony relating to the
30 practice of the person's profession or operation of the person's
31 business. For the purposes of this subsection, conviction includes all
32 instances in which a plea of guilty or nolo contendere is the basis for
33 conviction and all proceedings in which the sentence has been deferred
34 or suspended. Except as specifically provided by law, nothing in this
35 (~~section~~) subsection abrogates the provisions of chapter 9.96A RCW.
36 However, RCW 9.96A.020 does not apply to a person who is required to
37 register as a sex offender under RCW 9A.44.130; (~~and~~)

1 (14) Interference with an investigation or disciplinary action by
2 willful misrepresentation of facts before the disciplinary authority or
3 its authorized representatives, or by the use of threats or harassment
4 against any consumer or witness to discourage them from providing
5 evidence in a disciplinary action or any other legal action, or by the
6 use of financial inducements to any consumer or witness to prevent or
7 attempt to prevent him or her from providing evidence in a disciplinary
8 action; and

9 (15) Engaging in unlicensed practice as defined in RCW 18.235.010.

10 **Sec. 20.** RCW 18.235.150 and 2002 c 86 s 116 are each amended to
11 read as follows:

12 (1) The disciplinary authority may investigate complaints
13 concerning practice by unlicensed persons of a profession or business
14 for which a license is required by the chapters specified in RCW
15 18.235.020. In the investigation of the complaints, the director has
16 the same authority as provided the disciplinary authority under RCW
17 18.235.030.

18 (2) The disciplinary authority may issue a notice of intent to
19 issue a cease and desist order to any person whom the disciplinary
20 authority has reason to believe is engaged or is about to engage in the
21 unlicensed practice of a profession or operation of a business for
22 which a license is required by the chapters specified in RCW
23 18.235.020.

24 (3) The disciplinary authority may issue a notice of intent to
25 issue a cease and desist order to any person whom the disciplinary
26 authority has reason to believe is engaged or is about to engage in an
27 act or practice constituting a violation of this chapter or the
28 chapters specified in RCW 18.235.020(2) or a rule adopted or order
29 issued under those chapters.

30 (4) The person to whom such a notice is issued may request an
31 adjudicative proceeding to contest the allegations. The notice shall
32 include a brief, plain statement of the alleged unlicensed activities
33 or other unlawful activities or practices. The request for hearing
34 must be filed within twenty days after service of the notice of intent
35 to issue a cease and desist order. The failure to request a hearing
36 constitutes a default, whereupon the ~~((director))~~ disciplinary

1 authority may enter a permanent cease and desist order, which may
2 include a civil fine. All proceedings shall be conducted in accordance
3 with chapter 34.05 RCW.

4 ~~((3))~~ (5) If the disciplinary authority makes a final
5 determination that a person has engaged or is engaging in unlicensed
6 practice or other unlawful acts or practices, the ~~((director))~~
7 disciplinary authority may issue a permanent cease and desist order.
8 In addition, the disciplinary authority may impose a civil fine in an
9 amount not exceeding one thousand dollars for each day upon which the
10 person engaged in the unlicensed practice of a profession or operation
11 of a business for which a license is required by one or more of the
12 chapters specified in RCW 18.235.020. The proceeds of such a fine
13 shall be deposited in the related program account.

14 ~~((4) If the disciplinary authority makes a written finding of fact
15 that the public interest will be irreparably harmed by delay in issuing
16 an order,))~~ (6) The disciplinary authority may issue a temporary cease
17 and desist order if a person is engaged or is about to engage in
18 unlicensed practice or other unlawful acts or practices if the
19 disciplinary authority makes a written finding of fact that the public
20 interest will be irreparably harmed by delay in issuing an order. The
21 person receiving a temporary cease and desist order shall be provided
22 an opportunity for a prompt hearing. A temporary cease and desist
23 order shall remain in effect until further order of the disciplinary
24 authority. The failure to request a prompt or regularly scheduled
25 hearing constitutes a default, whereupon the disciplinary authority may
26 enter a permanent cease and desist order, which may include a civil
27 fine.

28 ~~((5))~~ (7) The cease and desist order is conclusive proof of
29 unlicensed practice or other unlawful acts or practices and may be
30 enforced under RCW 7.21.060. This method of enforcement of the cease
31 and desist order or civil fine may be used in addition to, or as an
32 alternative to, any provisions for enforcement of agency orders set out
33 in chapter 34.05 RCW.

34 ~~((6))~~ (8) The attorney general, a county prosecuting attorney,
35 the director, a board or commission, or any person may, in accordance
36 with the laws of this state governing injunctions, maintain an action
37 in the name of the state of Washington to enjoin any person practicing
38 a profession or business without a license for which a license is

1 required by the chapters specified in RCW 18.235.020. All fees, fines,
2 forfeitures, and penalties collected or assessed by a court because of
3 a violation of this section shall be deposited in the related program
4 account.

5 ~~((7))~~ (9) The civil remedies in this section do not limit the
6 ability to pursue criminal prosecution as authorized in any of the acts
7 specified in RCW 18.235.020 nor do the civil remedies limit any
8 criminal sanctions.

9 **Sec. 21.** RCW 18.235.210 and 2002 c 86 s 122 are each amended to
10 read as follows:

11 (1) This chapter applies to any conduct, acts, or conditions
12 occurring on or after January 1, 2003.

13 (2) This chapter does not apply to or govern the construction of
14 and disciplinary action for any conduct, acts, or conditions occurring
15 prior to January 1, 2003. The conduct, acts, or conditions must be
16 construed and disciplinary action taken according to the provisions of
17 law existing at the time of the occurrence in the same manner as if
18 this chapter had not been enacted.

19 (3) Notwithstanding subsection (2) of this section, this chapter
20 applies to applications for licensure made on or after January 1, 2003.

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

23 (1) RCW 18.140.175 (Cease and desist orders) and 1993 c 30 s 19;
24 and

25 (2) RCW 18.85.343 (Violations--Cease and desist orders) and 1997 c
26 322 s 22, 1989 c 175 s 67, & 1977 ex.s. c 261 s 2.

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