

2 **ESHB 1057** - S COMM AMD

3 By Committee on Health & Long-Term Care

4 ADOPTED 4/8/97

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

7 "Sec. 1. RCW 18.130.095 and 1995 c 336 s 6 are each amended to
8 read as follows:

9 (1)(a) The secretary, in consultation with the disciplining
10 authorities, shall develop uniform procedural rules to respond to
11 public inquiries concerning complaints and their disposition, active
12 investigations, statement of charges, findings of fact, and final
13 orders involving a licensee, applicant, or unlicensed person. The
14 uniform procedural rules adopted under this subsection apply to all
15 adjudicative proceedings conducted under this chapter and shall include
16 provisions for ((the)) establishing time periods for initial
17 assessment, investigation, charging, discovery, settlement, and
18 adjudication of complaints, and shall include enforcement provisions
19 for violations of the specific time periods by the department, the
20 disciplining authority, and the respondent. A licensee must be
21 notified upon receipt of a complaint, except when the notification
22 would impede an effective investigation. At the earliest point of time
23 the licensee must be allowed to submit a written statement about that
24 complaint, which statement must be included in the file. Complaints
25 filed after the effective date of this act are exempt from public
26 disclosure under chapter 42.17 RCW until the complaint has been
27 initially assessed and determined to warrant an investigation by the
28 disciplining authority. Complaints determined not to warrant an
29 investigation by the disciplining authority are no longer considered
30 complaints, but must remain in the records and tracking system of the
31 department. Information about complaints that did not warrant an
32 investigation, including the existence of the complaint, may be
33 released only upon receipt of a written public disclosure request or
34 pursuant to an interagency agreement as provided in (b) of this
35 subsection. Complaints determined to warrant no cause for action after
36 investigation are subject to public disclosure, must include an

1 explanation of the determination to close the complaint, and must
2 remain in the records and tracking system of the department.

3 (b) The secretary, on behalf of the disciplining authorities, shall
4 enter into interagency agreements for the exchange of records, which
5 may include complaints filed but not yet assessed, with other state
6 agencies if access to the records will assist those agencies in meeting
7 their federal or state statutory responsibilities. Records obtained by
8 state agencies under the interagency agreements are subject to the
9 limitations on disclosure contained in (a) of this subsection.

10 (2) The uniform procedures for conducting investigations shall
11 provide that prior to taking a written statement:

12 (a) For violation of this chapter, the investigator shall inform
13 such person, in writing of: (i) The nature of the complaint; (ii) that
14 the person may consult with legal counsel at his or her expense prior
15 to making a statement; and (iii) that any statement that the person
16 makes may be used in an adjudicative proceeding conducted under this
17 chapter; and

18 (b) From a witness or potential witness in an investigation under
19 this chapter, the investigator shall inform the person, in writing,
20 that the statement may be released to the licensee, applicant, or
21 unlicensed person under investigation if a statement of charges is
22 issued.

23 (3) Only upon the authorization of a disciplining authority
24 identified in RCW 18.130.040(2)(b), the secretary, or his or her
25 designee, may serve as the presiding officer for any disciplinary
26 proceedings of the disciplining authority authorized under this
27 chapter. Except as provided in RCW 18.130.050(8), the presiding
28 officer shall not vote on or make any final decision. All functions
29 performed by the presiding officer shall be subject to chapter 34.05
30 RCW. The secretary, in consultation with the disciplining authorities,
31 shall adopt procedures for implementing this subsection.

32 (4) The uniform procedural rules shall be adopted by all
33 disciplining authorities listed in RCW 18.130.040(2), and shall be used
34 for all adjudicative proceedings conducted under this chapter, as
35 defined by chapter 34.05 RCW. The uniform procedural rules shall
36 address the use of a presiding officer authorized in subsection (3) of
37 this section to determine and issue decisions on all legal issues and
38 motions arising during adjudicative proceedings.

