

2 **ESSB 5877** - H COMM AMD **NOT CONSIDERED 4/6/01**
3 By Committee on Health Care

4

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

7 **"NEW SECTION.** **Sec. 1.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout this
9 chapter.

10 (1) "Advanced social work" means the application of social work
11 theory and methods including emotional and biopsychosocial assessment,
12 psychotherapy under the supervision of a licensed independent clinical
13 social worker, case management, consultation, advocacy, counseling, and
14 community organization.

15 (2) "Applicant" means a person who completes the required
16 application, pays the required fee, is at least eighteen years of age,
17 and meets any background check requirements and uniform disciplinary
18 act requirements.

19 (3) "Committee" means the Washington state mental health
20 counselors, marriage and family therapists, and social workers advisory
21 committee.

22 (4) "Department" means the department of health.

23 (5) "Disciplining authority" means the department.

24 (6) "Independent clinical social work" means the diagnosis and
25 treatment of emotional and mental disorders based on knowledge of human
26 development, the causation and treatment of psychopathology,
27 psychotherapeutic treatment practices, and social work practice as
28 defined in advanced social work. Treatment modalities include but are
29 not limited to diagnosis and treatment of individuals, couples,
30 families, groups, or organizations.

31 (7) "Marriage and family therapy" means the diagnosis and treatment
32 of mental and emotional disorders, whether cognitive, affective, or
33 behavioral, within the context of relationships, including marriage and
34 family systems. Marriage and family therapy involves the professional
35 application of psychotherapeutic and family systems theories and
36 techniques in the delivery of services to individuals, couples, and

1 families for the purpose of treating such diagnosed nervous and mental
2 disorders. The practice of marriage and family therapy means the
3 rendering of professional marriage and family therapy services to
4 individuals, couples, and families, singly or in groups, whether such
5 services are offered directly to the general public or through
6 organizations, either public or private, for a fee, monetary or
7 otherwise.

8 (8) "Mental health counseling" means the application of principles
9 of human development, learning theory, psychotherapy, group dynamics,
10 and etiology of mental illness and dysfunctional behavior to
11 individuals, couples, families, groups, and organizations, for the
12 purpose of treatment of mental disorders and promoting optimal mental
13 health and functionality. Mental health counseling also includes, but
14 is not limited to, the assessment, diagnosis, and treatment of mental
15 and emotional disorders, as well as the application of a wellness model
16 of mental health.

17 (9) "Secretary" means the secretary of health or the secretary's
18 designee.

19 NEW SECTION. **Sec. 2.** A person must not represent himself or
20 herself as a licensed advanced social worker, licensed independent
21 clinical social worker, licensed mental health counselor, or licensed
22 marriage and family therapist, without being licensed by the
23 department.

24 NEW SECTION. **Sec. 3.** Nothing in this chapter shall be construed
25 to prohibit or restrict:

26 (1) The practice of marriage and family therapy, mental health
27 counseling, or social work by an individual otherwise regulated under
28 this title and performing services within the authorized scope of
29 practice;

30 (2) The practice of marriage and family therapy, mental health
31 counseling, or social work by an individual employed by the government
32 of the United States or state of Washington while engaged in the
33 performance of duties prescribed by the laws of the United States or
34 state of Washington;

35 (3) The practice of marriage and family therapy, mental health
36 counseling, or social work by a person who is a regular student in an
37 educational program based on recognized national standards and approved

1 by the secretary, and whose performance of services is pursuant to a
2 regular course of instruction or assignments from an instructor and
3 under the general supervision of the instructor;

4 (4) The practice of marriage and family therapy, mental health
5 counseling, or social work under the auspices of a religious
6 denomination, church, or religious organization.

7 **NEW SECTION.** **Sec. 4.** In addition to any other authority provided
8 by law, the secretary has the authority to:

9 (1) Adopt rules under chapter 34.05 RCW necessary to implement this
10 chapter. Any rules adopted shall be in consultation with the
11 committee;

12 (2) Establish all licensing, examination, and renewal fees in
13 accordance with RCW 43.70.250;

14 (3) Establish forms and procedures necessary to administer this
15 chapter;

16 (4) Issue licenses to applicants who have met the education,
17 training, and examination requirements for licensure and to deny a
18 license to applicants who do not meet the requirements;

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

23 (6) Administer and supervise the grading and taking of examinations
24 for applicants for licensure;

25 (7) Determine which states have credentialing requirements
26 substantially equivalent to those of this state, and issue licenses to
27 individuals credentialed in those states without examinations;

28 (8) Implement and administer a program for consumer education in
29 consultation with the committee;

30 (9) Adopt rules implementing a continuing education program in
31 consultation with the committee;

32 (10) Maintain the official record of all applicants and licensees;
33 and

34 (11) Establish by rule the procedures for an appeal of an
35 examination failure.

36 **NEW SECTION.** **Sec. 5.** The secretary shall keep an official record
37 of all proceedings. A part of the record shall consist of a register

1 of all applicants for licensing under this chapter and the results of
2 each application.

3 **NEW SECTION.** **SEC. 6.** The Washington state mental health
4 counselors, marriage and family therapists, and social workers advisory
5 committee is established.

6 (1) The committee shall be comprised of nine members. Two members
7 shall be licensed mental health counselors. Two members shall be
8 licensed marriage and family therapists. One member shall be a
9 licensed independent clinical social worker, and one member shall be a
10 licensed advanced social worker. Three members must be consumers and
11 represent the public at large and may not be licensed mental health
12 care providers.

13 (2) Three members shall be appointed for a term of one year, three
14 members shall be appointed for a term of two years, and three members
15 shall be appointed for a term of three years. Subsequent members shall
16 be appointed for terms of three years. A person must not serve as a
17 member for more than two consecutive terms.

18 (3)(a) Each member must be a resident of the state of Washington.

19 (b) Each member must not hold an office in a professional
20 association for mental health, social work, or marriage and family
21 therapy and must not be employed by the state of Washington.

22 (c) Each professional member must have been actively engaged as a
23 mental health counselor, marriage and family therapist, or social
24 worker for five years immediately preceding appointment.

25 (d) The consumer members must represent the general public and be
26 unaffiliated directly or indirectly with the professions licensed under
27 this chapter.

28 (4) The secretary shall appoint the committee members.

29 (5) Committee members are immune from suit in an action, civil or
30 criminal, based on the department's disciplinary proceedings or other
31 official acts performed in good faith.

32 (6) Committee members shall be compensated in accordance with RCW
33 43.03.240, including travel expenses in carrying out his or her
34 authorized duties in accordance with RCW 43.03.050 and 43.03.060.

35 (7) The committee shall elect a chair and vice-chair.

1 **NEW SECTION.** **Sec. 7.** The department of health may seek the advice
2 and assistance of the advisory committee in administering this chapter,
3 including, but not limited to:

4 (1) Advice and recommendations regarding the establishment or
5 implementation of rules related to the administration of this chapter;

6 (2) Advice, recommendations, and consultation regarding case
7 disposition guidelines and priorities related to unprofessional conduct
8 cases regarding licensed mental health counselors, licensed clinical
9 social workers, licensed advanced social workers, and licensed marriage
10 and family therapists;

11 (3) Assistance and consultation of individual committee members as
12 needed in the review, analysis, and disposition of reports of
13 unprofessional conduct and consumer complaints;

14 (4) Assistance and recommendations to enhance consumer education;
15 and

16 (5) Assistance and recommendations regarding any continuing
17 education and continuing competency programs administered under the
18 provisions of the chapter.

19 **NEW SECTION.** **Sec. 8.** The uniform disciplinary act, chapter 18.130
20 RCW, governs unlicensed practice, the issuance and denial of licensure,
21 and the discipline of persons licensed under this chapter. The
22 secretary shall be the disciplinary authority under this chapter.

23 **NEW SECTION.** **Sec. 9.** (1) The secretary shall issue a license to
24 any applicant who demonstrates to the satisfaction of the secretary
25 that the applicant meets the following education and experience
26 requirements for the applicant's practice area.

27 (a) Licensed social work classifications:

28 (i) Licensed advanced social worker:

29 (A) Graduation from a master's or doctorate social work educational
30 program accredited by the council on social work education and approved
31 by the secretary based upon nationally recognized standards;

32 (B) Successful completion of an approved examination;

33 (C) Successful completion of a supervised experience requirement.

34 The experience requirement consists of a minimum of three thousand two
35 hundred hours of experience supervised by a licensed independent
36 clinical social worker or a licensed advanced social worker who has
37 been licensed at least two years. Of those hours, fifty hours must

1 include direct supervision by a licensed advanced social worker or
2 licensed independent clinical social worker; the other forty hours may
3 be with an equally qualified licensed mental health practitioner.
4 Forty hours must be in one-to-one supervision and fifty hours may be in
5 one-to-one supervision or group supervision. Distance supervision is
6 limited to forty supervision hours. Eight hundred hours must be in
7 direct client contact; and

8 (D) Successful completion of continuing education requirements of
9 thirty-six hours, with six in professional ethics.

10 (ii) Licensed independent clinical social worker:

11 (A) Graduation from a master's or doctorate level social work
12 educational program accredited by the council on social work education
13 and approved by the secretary based upon nationally recognized
14 standards;

15 (B) Successful completion of an approved examination;

16 (C) Successful completion of a supervised experience requirement.

17 The experience requirement consists of a minimum of four thousand hours
18 of experience, of which one thousand hours must be direct client
19 contact, over a three-year period supervised by a licensed independent
20 clinical social worker, with supervision of at least one hundred thirty
21 hours by a licensed mental health practitioner. Of the total
22 supervision, seventy hours must be with an independent clinical social
23 worker; the other sixty hours may be with an equally qualified licensed
24 mental health practitioner. Sixty hours must be in one-to-one
25 supervision and seventy hours may be in one-to-one supervision or group
26 supervision. Distance supervision is limited to sixty supervision
27 hours; and

28 (D) Successful completion of continuing education requirements of
29 thirty-six hours, with six in professional ethics.

30 (b) Licensed mental health counselor:

31 (i) Graduation from a master's or doctoral level educational
32 program in mental health counseling or a related discipline from a
33 college or university approved by the secretary based upon nationally
34 recognized standards;

35 (ii) Successful completion of an approved examination;

36 (iii) Successful completion of a supervised experience requirement.

37 The experience requirement consists of a minimum of thirty-six months
38 full-time counseling or three thousand hours of postgraduate mental
39 health counseling under the supervision of a qualified licensed mental

1 health counselor in an approved setting. The three thousand hours of
2 required experience includes a minimum of one hundred hours spent in
3 immediate supervision with the qualified licensed mental health
4 counselor, and includes a minimum of one thousand two hundred hours of
5 direct counseling with individuals, couples, families, or groups; and

6 (iv) Successful completion of continuing education requirements of
7 thirty-six hours, with six in professional ethics.

8 (c) Licensed marriage and family therapist:

9 (i) Graduation from a master's degree or doctoral degree
10 educational program in marriage and family therapy or graduation from
11 an educational program in an allied field equivalent to a master's
12 degree or doctoral degree in marriage and family therapy approved by
13 the secretary based upon nationally recognized standards;

14 (ii) Successful passage of an approved examination;

15 (iii) Successful completion of a supervised experience requirement.

16 The experience requirement consists of a minimum of two calendar years
17 of full-time marriage and family therapy. Of the total supervision,
18 one hundred hours must be with a licensed marriage and family therapist
19 with at least five years' clinical experience; the other one hundred
20 hours may be with an equally qualified licensed mental health
21 practitioner. Total experience requirements include:

22 (A) A minimum of three thousand hours of experience, one thousand
23 hours of which must be direct client contact; at least five hundred
24 hours must be gained in diagnosing and treating couples and families;
25 plus

26 (B) At least two hundred hours of qualified supervision with a
27 supervisor. At least one hundred of the two hundred hours must be one-
28 on-one supervision, and the remaining hours may be in one-on-one or
29 group supervision.

30 Applicants who have completed a master's program accredited by the
31 commission on accreditation for marriage and family therapy education
32 of the American association for marriage and family therapy may be
33 credited with five hundred hours of direct client contact and one
34 hundred hours of formal meetings with an approved supervisor; and

35 (iv) Successful completion of continuing education requirements of
36 thirty-six hours, with six in professional ethics.

37 (2) The department shall establish by rule what constitutes
38 adequate proof of meeting the criteria.

1 (3) In addition, applicants shall be subject to the grounds for
2 denial of a license or issuance of a conditional license under chapter
3 18.130 RCW.

4 NEW SECTION. **Sec. 10.** A person licensed under this chapter must
5 provide clients at the commencement of any program of treatment with
6 accurate disclosure information concerning the practice, in accordance
7 with rules adopted by the department, including the right of clients to
8 refuse treatment, the responsibility of clients to choose the provider
9 and treatment modality which best suits their needs, and the extent of
10 confidentiality provided by this chapter. The disclosure information
11 must also include the license holder's professional education and
12 training, the therapeutic orientation of the practice, the proposed
13 course of treatment where known, financial requirements, and such other
14 information as required by rule. The disclosure must be acknowledged
15 in writing by the client and license holder.

16 NEW SECTION. **Sec. 11.** (1) The date and location of examinations
17 shall be established by the secretary. Applicants who have been found
18 by the secretary to meet the other requirements for licensure shall be
19 scheduled for the next examination following the filing of the
20 application. The secretary shall establish by rule the examination
21 application deadline.

22 (2) The secretary or the secretary's designees shall examine each
23 applicant, by means determined most effective, on subjects appropriate
24 to the scope of practice, as applicable. Such examinations shall be
25 limited to the purpose of determining whether the applicant possesses
26 the minimum skill and knowledge necessary to practice competently.

27 (3) The examination papers, all grading of the papers, and the
28 grading of any practical work shall be preserved for a period of not
29 less than one year after the secretary has made and published the
30 decisions. All examinations shall be conducted under fair and wholly
31 impartial methods.

32 (4) The secretary may approve an examination prepared or
33 administered by a private testing agency or association of licensing
34 agencies for use by an applicant in meeting the licensing requirements.

35 NEW SECTION. **Sec. 12.** Applications for licensing shall be
36 submitted on forms provided by the secretary. The secretary may

1 require any information and documentation which reasonably relates to
2 the need to determine whether the applicant meets the criteria for
3 licensing provided for in this chapter and chapter 18.130 RCW. Each
4 applicant shall pay a fee determined by the secretary under RCW
5 43.70.250. The fee shall accompany the application.

6 **NEW SECTION.** **Sec. 13.** Any person certified under chapter 18.19
7 RCW who has met the applicable experience and education requirements is
8 eligible for a license as an advanced social worker, an independent
9 clinical social worker, a marriage and family therapist, or a mental
10 health counselor under this chapter without taking the examination.

11 **NEW SECTION.** **Sec. 14.** An applicant holding a credential in
12 another state may be licensed to practice in this state without
13 examination if the secretary determines that the other state's
14 credentialing standards are substantially equivalent to the licensing
15 standards in this state.

16 **NEW SECTION.** **Sec. 15.** The secretary shall establish by rule the
17 procedural requirements and fees for renewal of a license. Failure to
18 renew shall invalidate the license and all privileges granted by the
19 license. If a license has lapsed for a period longer than three years,
20 the person shall demonstrate competence to the satisfaction of the
21 secretary by taking continuing education courses, or meeting other
22 standards determined by the secretary.

23 **NEW SECTION.** **Sec. 16.** This chapter shall not be construed as
24 permitting the administration or prescription of drugs or in any way
25 infringing upon the practice of medicine and surgery as defined in
26 chapter 18.71 or 18.57 RCW, or in any way infringing upon the practice
27 of psychology as defined in chapter 18.83 RCW, or restricting the scope
28 of the practice of counseling for those registered under chapter 18.19
29 RCW, or restricting the scope of practice of persons licensed under
30 this chapter.

31 **Sec. 17.** RCW 18.19.010 and 1987 c 512 s 1 are each amended to read
32 as follows:

33 The qualifications and practices of counselors in this state are
34 virtually unknown to potential clients. Beyond the regulated practices

1 of psychiatry and psychology, there are a considerable variety of
2 disciplines, theories, and techniques employed by other counselors
3 under a number of differing titles. The legislature recognizes the
4 right of all counselors to practice their skills freely, consistent
5 with the requirements of the public health and safety, as well as the
6 right of individuals to choose which counselors best suit their needs
7 and purposes. This chapter shall not be construed to require or
8 prohibit that individual or group policies or contracts of an insurance
9 carrier, health care service contractor, or health maintenance
10 organization provide benefits or coverage for services and supplies
11 provided by a person registered ((or certified)) under this chapter.

12 **Sec. 18.** RCW 18.19.020 and 1991 c 3 s 19 are each amended to read
13 as follows:

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

16 (1) ((~~Certified marriage and family therapist~~) means a person
17 certified to practice marriage and family therapy pursuant to RCW
18 18.19.130.

19 (2) "Certified mental health counselor" means a person certified to
20 practice mental health counseling pursuant to RCW 18.19.120.

21 (3) "Certified social worker" means a person certified to practice
22 social work pursuant to RCW 18.19.110.

23 (4)) "Client" means an individual who receives or participates in
24 counseling or group counseling.

25 ((5)) (2) "Counseling" means employing any therapeutic
26 techniques, including but not limited to social work, mental health
27 counseling, marriage and family therapy, and hypnotherapy, for a fee
28 that offer, assist or attempt to assist an individual or individuals in
29 the amelioration or adjustment of mental, emotional, or behavioral
30 problems, and includes therapeutic techniques to achieve sensitivity
31 and awareness of self and others and the development of human
32 potential. For the purposes of this chapter, nothing may be construed
33 to imply that the practice of hypnotherapy is necessarily limited to
34 counseling.

35 ((6)) (3) "Counselor" means an individual, practitioner,
36 therapist, or analyst who engages in the practice of counseling to the
37 public for a fee, including for the purposes of this chapter,
38 hypnotherapists.

1 ((+7))) (4) "Department" means the department of health.
2 ((+8))) (5) "Secretary" means the secretary of the department or
3 the secretary's designee.

4 **Sec. 19.** RCW 18.19.030 and 1991 c 3 s 20 are each amended to read
5 as follows:

6 No person may, for a fee or as a part of his or her position as an
7 employee of a state agency, practice counseling without being
8 registered to practice by the department under this chapter unless
9 exempt under RCW 18.19.040. ~~((No person may represent himself or
10 herself as a certified social worker, certified mental health
11 counselor, or certified marriage and family therapist without being so
12 certified by the department under this chapter.))~~

13 **Sec. 20.** RCW 18.19.040 and 1987 c 512 s 4 are each amended to read
14 as follows:

15 Nothing in this chapter may be construed to prohibit or restrict:
16 (1) The practice of a profession by a person who is either
17 registered, certified, licensed, or similarly regulated under the laws
18 of this state and who is performing services within the person's
19 authorized scope of practice, including any attorney admitted to
20 practice law in this state when providing counseling incidental to and
21 in the course of providing legal counsel;

22 (2) The practice of counseling by an employee or trainee of any
23 federal agency, or the practice of counseling by a student of a college
24 or university, if the employee, trainee, or student is practicing
25 solely under the supervision of and accountable to the agency, college,
26 or university, through which he or she performs such functions as part
27 of his or her position for no additional fee other than ordinary
28 compensation;

29 (3) The practice of counseling by a person without a mandatory
30 charge;

31 (4) The practice of counseling by persons offering services for
32 public and private nonprofit organizations or charities not primarily
33 engaged in counseling for a fee when approved by the organizations or
34 agencies for whom they render their services;

35 (5) Evaluation, consultation, planning, policy-making, research, or
36 related services conducted by social scientists for private
37 corporations or public agencies;

1 (6) The practice of counseling by a person under the auspices of a
2 religious denomination, church, or organization, or the practice of
3 religion itself;

4 (7) Counselors whose residency is not Washington state from
5 providing up to ten days per quarter of training or workshops in the
6 state, as long as they don't hold themselves out to be registered ((or
7 certified)) in Washington state.

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

10 (1) In addition to any other authority provided by law, the
11 secretary has the following authority:

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

14 (b) To set all ((certification,)) registration((,)) and renewal
15 fees in accordance with RCW 43.70.250 and to collect and deposit all
16 such fees in the health professions account established under RCW
17 43.70.320;

18 (c) To establish forms and procedures necessary to administer this
19 chapter;

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

22 (e) To issue a registration to any applicant who has met the
23 requirements for registration; and

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

26 (g) To prepare and administer or cause to be prepared and
27 administered an examination for all qualified applicants for
28 certification;

29 (h) To establish criteria for evaluating the ability and
30 qualifications of persons applying for a certificate, including
31 standards for passing the examination and standards of qualification
32 for certification to practice;

33 (i) To evaluate and designate those schools from which graduation
34 will be accepted as proof of an applicant's eligibility to receive a
35 certificate and to establish standards and procedures for accepting
36 alternative training in lieu of such graduation;

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

1 (k) To set competence requirements for maintaining certification;
2 and

3 (l)) To develop a dictionary of recognized professions and
4 occupations providing counseling services to the public included under
5 this chapter.

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

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

26 **Sec. 22.** RCW 18.19.060 and 1987 c 512 s 6 are each amended to read
27 as follows:

28 Persons registered ((or certified)) under this chapter shall
29 provide clients at the commencement of any program of treatment with
30 accurate disclosure information concerning their practice, in
31 accordance with guidelines developed by the department, that will
32 inform clients of the purposes of and resources available under this
33 chapter, including the right of clients to refuse treatment, the
34 responsibility of clients for choosing the provider and treatment
35 modality which best suits their needs, and the extent of
36 confidentiality provided by this chapter. The disclosure information
37 provided by the counselor, the receipt of which shall be acknowledged
38 in writing by the counselor and client, shall include any relevant

1 education and training, the therapeutic orientation of the practice,
2 the proposed course of treatment where known, any financial
3 requirements, and such other information as the department may require
4 by rule. The disclosure information shall also include a statement
5 that registration of an individual under this chapter does not include
6 a recognition of any practice standards, nor necessarily imply the
7 effectiveness of any treatment.

8 **Sec. 23.** RCW 18.19.080 and 1991 c 3 s 23 are each amended to read
9 as follows:

10 The secretary shall keep an official record of all proceedings, a
11 part of which record shall consist of a register of all applicants for
12 registration ((or certification)) under this chapter, with the result
13 of each application.

14 **Sec. 24.** RCW 18.19.180 and 1991 c 3 s 33 are each amended to read
15 as follows:

16 An individual registered ((or certified)) under this chapter shall
17 not disclose the written acknowledgment of the disclosure statement
18 pursuant to RCW 18.19.060 nor any information acquired from persons
19 consulting the individual in a professional capacity when that
20 information was necessary to enable the individual to render
21 professional services to those persons except:

22 (1) With the written consent of that person or, in the case of
23 death or disability, the person's personal representative, other person
24 authorized to sue, or the beneficiary of an insurance policy on the
25 person's life, health, or physical condition;

26 (2) That a person registered ((or certified)) under this chapter is
27 not required to treat as confidential a communication that reveals the
28 contemplation or commission of a crime or harmful act;

29 (3) If the person is a minor, and the information acquired by the
30 person registered ((or certified)) under this chapter indicates that
31 the minor was the victim or subject of a crime, the person registered
32 ((or certified)) may testify fully upon any examination, trial, or
33 other proceeding in which the commission of the crime is the subject of
34 the inquiry;

35 (4) If the person waives the privilege by bringing charges against
36 the person registered ((or certified)) under this chapter;

- 1 (5) In response to a subpoena from a court of law or the secretary.
2 The secretary may subpoena only records related to a complaint or
3 report under chapter 18.130 RCW; or
4 (6) As required under chapter 26.44 RCW.

5 **Sec. 25.** RCW 18.19.190 and 1987 c 512 s 18 are each amended to
6 read as follows:

7 This chapter shall not be construed as permitting the
8 administration or prescription of drugs or in any way infringing upon
9 the practice of medicine and surgery as defined in chapter 18.71 RCW,
10 or in any way infringing upon the practice of psychology as defined in
11 chapter 18.83 RCW, or restricting the scope of the practice of
12 counseling for those registered ((or certified)) under this chapter.

13 **Sec. 26.** RCW 18.120.020 and 2000 c 93 s 15 are each amended to
14 read as follows:

15 The definitions in this section apply throughout this chapter
16 unless the context clearly requires otherwise.

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

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

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

33 (4) "Health professions" means and includes the following health
34 and health-related licensed or regulated professions and occupations:
35 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
36 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
37 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;

1 dispensing opticians under chapter 18.34 RCW; hearing instruments under
2 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
3 funeral directing under chapter 18.39 RCW; midwifery under chapter
4 18.50 RCW; nursing home administration under chapter 18.52 RCW;
5 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter
6 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and
7 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
8 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter
9 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses
10 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;
11 registered nurses under chapter 18.79 RCW; occupational therapists
12 licensed under chapter 18.59 RCW; respiratory care practitioners
13 licensed under chapter 18.89 RCW; veterinarians and veterinary
14 technicians under chapter 18.92 RCW; health care assistants under
15 chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW;
16 acupuncturists licensed under chapter 18.06 RCW; persons registered
17 ((or certified)) under chapter 18.19 RCW; persons licensed as mental
18 health counselors, marriage and family therapists, and social workers
19 under chapter 18.-- RCW (sections 1 through 16 of this act); dietitians
20 and nutritionists certified by chapter 18.138 RCW; radiologic
21 technicians under chapter 18.84 RCW; and nursing assistants registered
22 or certified under chapter 18.88A RCW.

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

27 (6) "Legislative committees of reference" means the standing
28 legislative committees designated by the respective rules committees of
29 the senate and house of representatives to consider proposed
30 legislation to regulate health professions not previously regulated.

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

36 (8) "Professional license" means an individual, nontransferable
37 authorization to carry on a health activity based on qualifications
38 which include: (a) Graduation from an accredited or approved program,

1 and (b) acceptable performance on a qualifying examination or series of
2 examinations.

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

6 (10) "Public member" means an individual who is not, and never was,
7 a member of the health profession being regulated or the spouse of a
8 member, or an individual who does not have and never has had a material
9 financial interest in either the rendering of the health professional
10 service being regulated or an activity directly related to the
11 profession being regulated.

12 (11) "Registration" means the formal notification which, prior to
13 rendering services, a practitioner shall submit to a state agency
14 setting forth the name and address of the practitioner; the location,
15 nature and operation of the health activity to be practiced; and, if
16 required by the regulatory entity, a description of the service to be
17 provided.

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

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

26 **Sec. 27.** RCW 18.130.040 and 1999 c 335 s 10 are each amended to
27 read as follows:

28 (1) This chapter applies only to the secretary and the boards and
29 commissions having jurisdiction in relation to the professions licensed
30 under the chapters specified in this section. This chapter does not
31 apply to any business or profession not licensed under the chapters
32 specified in this section.

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

- 35 (i) Dispensing opticians licensed under chapter 18.34 RCW;
36 (ii) Naturopaths licensed under chapter 18.36A RCW;
37 (iii) Midwives licensed under chapter 18.50 RCW;
38 (iv) Ocularists licensed under chapter 18.55 RCW;

1 (v) Massage operators and businesses licensed under chapter 18.108
2 RCW;

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

4 (vii) Acupuncturists licensed under chapter 18.06 RCW;

5 (viii) Radiologic technologists certified and X-ray technicians
6 registered under chapter 18.84 RCW;

7 (ix) Respiratory care practitioners licensed under chapter 18.89
8 RCW;

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

10 (xi) Persons licensed as mental health counselors, marriage and
11 family therapists, and social workers under chapter 18.-- RCW (sections
12 1 through 16 of this act);

13 (xii) Persons registered as nursing pool operators under chapter
14 18.52C RCW;

15 ((+xii))) (xiii) Nursing assistants registered or certified under
16 chapter 18.88A RCW;

17 ((+xiii))) (xiv) Health care assistants certified under chapter
18 18.135 RCW;

19 ((+xiv))) (xv) Dietitians and nutritionists certified under chapter
20 18.138 RCW;

21 ((+xv))) (xvi) Chemical dependency professionals certified under
22 chapter 18.205 RCW;

23 ((+xvi))) (xvii) Sex offender treatment providers certified under
24 chapter 18.155 RCW;

25 ((+xvii))) (xviii) Persons licensed and certified under chapter
26 18.73 RCW or RCW 18.71.205;

27 ((+xviii))) (xix) Persons registered as adult family home providers
28 and resident managers under RCW 18.48.020;

29 ((+xix))) (xx) Denturists licensed under chapter 18.30 RCW;

30 ((+xx))) (xxi) Orthotists and prosthetists licensed under chapter
31 18.200 RCW; and

32 ((+xxi))) (xxii) Surgical technologists registered under chapter
33 18.215 RCW.

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

36 (i) The podiatric medical board as established in chapter 18.22
37 RCW;

38 (ii) The chiropractic quality assurance commission as established
39 in chapter 18.25 RCW;

1 (iii) The dental quality assurance commission as established in
2 chapter 18.32 RCW;

3 (iv) The board of hearing and speech as established in chapter
4 18.35 RCW;

5 (v) The board of examiners for nursing home administrators as
6 established in chapter 18.52 RCW;

7 (vi) The optometry board as established in chapter 18.54 RCW
8 governing licenses issued under chapter 18.53 RCW;

9 (vii) The board of osteopathic medicine and surgery as established
10 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
11 18.57A RCW;

12 (viii) The board of pharmacy as established in chapter 18.64 RCW
13 governing licenses issued under chapters 18.64 and 18.64A RCW;

14 (ix) The medical quality assurance commission as established in
15 chapter 18.71 RCW governing licenses and registrations issued under
16 chapters 18.71 and 18.71A RCW;

17 (x) The board of physical therapy as established in chapter 18.74
18 RCW;

19 (xi) The board of occupational therapy practice as established in
20 chapter 18.59 RCW;

21 (xii) The nursing care quality assurance commission as established
22 in chapter 18.79 RCW governing licenses issued under that chapter;

23 (xiii) The examining board of psychology and its disciplinary
24 committee as established in chapter 18.83 RCW; and

25 (xiv) The veterinary board of governors as established in chapter
26 18.92 RCW.

27 (3) In addition to the authority to discipline license holders, the
28 disciplining authority has the authority to grant or deny licenses
29 based on the conditions and criteria established in this chapter and
30 the chapters specified in subsection (2) of this section. This chapter
31 also governs any investigation, hearing, or proceeding relating to
32 denial of licensure or issuance of a license conditioned on the
33 applicant's compliance with an order entered pursuant to RCW 18.130.160
34 by the disciplining authority.

35 (4) All disciplining authorities shall adopt procedures to ensure
36 substantially consistent application of this chapter, the Uniform
37 Disciplinary Act, among the disciplining authorities listed in
38 subsection (2) of this section.

1 **Sec. 28.** RCW 9A.44.010 and 1997 c 392 s 513 and 1997 c 112 s 37
2 are each reenacted and amended to read as follows:

3 As used in this chapter:

4 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
5 upon any penetration, however slight, and

6 (b) Also means any penetration of the vagina or anus however
7 slight, by an object, when committed on one person by another, whether
8 such persons are of the same or opposite sex, except when such
9 penetration is accomplished for medically recognized treatment or
10 diagnostic purposes, and

11 (c) Also means any act of sexual contact between persons involving
12 the sex organs of one person and the mouth or anus of another whether
13 such persons are of the same or opposite sex.

14 (2) "Sexual contact" means any touching of the sexual or other
15 intimate parts of a person done for the purpose of gratifying sexual
16 desire of either party or a third party.

17 (3) "Married" means one who is legally married to another, but does
18 not include a person who is living separate and apart from his or her
19 spouse and who has filed in an appropriate court for legal separation
20 or for dissolution of his or her marriage.

21 (4) "Mental incapacity" is that condition existing at the time of
22 the offense which prevents a person from understanding the nature or
23 consequences of the act of sexual intercourse whether that condition is
24 produced by illness, defect, the influence of a substance or from some
25 other cause.

26 (5) "Physically helpless" means a person who is unconscious or for
27 any other reason is physically unable to communicate unwillingness to
28 an act.

29 (6) "Forcible compulsion" means physical force which overcomes
30 resistance, or a threat, express or implied, that places a person in
31 fear of death or physical injury to herself or himself or another
32 person, or in fear that she or he or another person will be kidnapped.

33 (7) "Consent" means that at the time of the act of sexual
34 intercourse or sexual contact there are actual words or conduct
35 indicating freely given agreement to have sexual intercourse or sexual
36 contact.

37 (8) "Significant relationship" means a situation in which the
38 perpetrator is:

1 (a) A person who undertakes the responsibility, professionally or
2 voluntarily, to provide education, health, welfare, or organized
3 recreational activities principally for minors;

4 (b) A person who in the course of his or her employment supervises
5 minors; or

6 (c) A person who provides welfare, health or residential
7 assistance, personal care, or organized recreational activities to
8 frail elders or vulnerable adults, including a provider, employee,
9 temporary employee, volunteer, or independent contractor who supplies
10 services to long-term care facilities licensed or required to be
11 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
12 health, hospice, or home care agencies licensed or required to be
13 licensed under chapter 70.127 RCW, but not including a consensual
14 sexual partner.

15 (9) "Abuse of a supervisory position" means a direct or indirect
16 threat or promise to use authority to the detriment or benefit of a
17 minor.

18 (10) "Developmentally disabled," for purposes of RCW
19 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
20 developmental disability as defined in RCW 71A.10.020.

21 (11) "Person with supervisory authority," for purposes of RCW
22 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
23 proprietor or employee of any public or private care or treatment
24 facility who directly supervises developmentally disabled, mentally
25 disordered, or chemically dependent persons at the facility.

26 (12) "Mentally disordered person" for the purposes of RCW
27 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
28 disorder" as defined in RCW 71.05.020.

29 (13) "Chemically dependent person" for purposes of RCW
30 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
31 dependent" as defined in RCW 70.96A.020(4).

32 (14) "Health care provider" for purposes of RCW 9A.44.050 and
33 9A.44.100 means a person who is, holds himself or herself out to be, or
34 provides services as if he or she were: (a) A member of a health care
35 profession under chapter 18.130 RCW; or (b) registered ((or certified))
36 under chapter 18.19 RCW or licensed under chapter 18.-- RCW (sections
37 1 through 16 of this act), regardless of whether the health care
38 provider is licensed, certified, or registered by the state.

1 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
2 the active delivery of professional services by a health care provider
3 which the health care provider holds himself or herself out to be
4 qualified to provide.

5 (16) "Frail elder or vulnerable adult" means a person sixty years
6 of age or older who has the functional, mental, or physical inability
7 to care for himself or herself. "Frail elder or vulnerable adult" also
8 includes a person found incapacitated under chapter 11.88 RCW, a person
9 over eighteen years of age who has a developmental disability under
10 chapter 71A.10 RCW, a person admitted to a long-term care facility that
11 is licensed or required to be licensed under chapter 18.20, 18.51,
12 72.36, or 70.128 RCW, and a person receiving services from a home
13 health, hospice, or home care agency licensed or required to be
14 licensed under chapter 70.127 RCW.

15 **Sec. 29.** RCW 18.100.050 and 1999 c 128 s 1 are each amended to
16 read as follows:

17 (1) An individual or group of individuals duly licensed or
18 otherwise legally authorized to render the same professional services
19 within this state may organize and become a shareholder or shareholders
20 of a professional corporation for pecuniary profit under the provisions
21 of Title 23B RCW for the purpose of rendering professional service.
22 One or more of the legally authorized individuals shall be the
23 incorporators of the professional corporation.

24 (2) Notwithstanding any other provision of this chapter, registered
25 architects and registered engineers may own stock in and render their
26 individual professional services through one professional service
27 corporation.

28 (3) Licensed health care professionals, providing services to
29 enrolled participants either directly or through arrangements with a
30 health maintenance organization registered under chapter 48.46 RCW or
31 federally qualified health maintenance organization, may own stock in
32 and render their individual professional services through one
33 professional service corporation.

34 (4) Professionals may organize a nonprofit nonstock corporation
35 under this chapter and chapter 24.03 RCW to provide professional
36 services, and the provisions of this chapter relating to stock and
37 referring to Title 23B RCW shall not apply to any such corporation.

1 (5)(a) Notwithstanding any other provision of this chapter, health
2 care professionals who are licensed or certified pursuant to chapters
3 18.06, ((18.19,)) 18.-- (sections 1 through 16 of this act), 18.22,
4 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A,
5 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may
6 own stock in and render their individual professional services through
7 one professional service corporation and are to be considered, for the
8 purpose of forming a professional service corporation, as rendering the
9 "same specific professional services" or "same professional services"
10 or similar terms.

11 (b) Notwithstanding any other provision of this chapter, health
12 care professionals who are regulated under chapters 18.59 and 18.74 RCW
13 may own stock in and render their individual professional services
14 through one professional service corporation formed for the sole
15 purpose of providing professional services within their respective
16 scope of practice.

17 (c) Formation of a professional service corporation under this
18 subsection does not restrict the application of the uniform
19 disciplinary act under chapter 18.130 RCW, or applicable health care
20 professional statutes under Title 18 RCW, including but not limited to
21 restrictions on persons practicing a health profession without being
22 appropriately credentialed and persons practicing beyond the scope of
23 their credential.

24 **Sec. 30.** RCW 18.205.090 and 1998 c 243 s 9 are each amended to
25 read as follows:

26 (1) The secretary shall issue a certificate to any applicant who
27 demonstrates to the secretary's satisfaction that the following
28 requirements have been met:

29 (a) Completion of an educational program approved by the secretary
30 or successful completion of alternate training that meets established
31 criteria;

32 (b) Successful completion of an approved examination, based on core
33 competencies of chemical dependency counseling; and

34 (c) Successful completion of an experience requirement that
35 establishes fewer hours of experience for applicants with higher levels
36 of relevant education. In meeting any experience requirement
37 established under this subsection, the secretary may not require more
38 than one thousand five hundred hours of experience in chemical

1 dependency counseling for applicants who are licensed under chapter
2 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse
3 practitioners.

4 (2) The secretary shall establish by rule what constitutes adequate
5 proof of meeting the criteria.

6 (3) Applicants are subject to the grounds for denial of a
7 certificate or issuance of a conditional certificate under chapter
8 18.130 RCW.

9 (4) Certified chemical dependency professionals shall not be
10 required to be registered under chapter 18.19 RCW or licensed under
11 chapter 18.-- RCW (sections 1 through 16 of this act).

12 **Sec. 31.** RCW 25.05.510 and 1998 c 103 s 1103 are each amended to
13 read as follows:

14 (1) A person or group of persons licensed or otherwise legally
15 authorized to render professional services, as defined in RCW
16 18.100.030, within this state may organize and become a member or
17 members of a limited liability partnership under the provisions of this
18 chapter for the purposes of rendering professional service. Nothing in
19 this section prohibits a person duly licensed or otherwise legally
20 authorized to render professional services in any jurisdiction other
21 than this state from becoming a member of a limited liability
22 partnership organized for the purpose of rendering the same
23 professional services. Nothing in this section prohibits a limited
24 liability partnership from rendering professional services outside this
25 state through individuals who are not duly licensed or otherwise
26 legally authorized to render such professional services within this
27 state.

28 (2)(a) Notwithstanding any other provision of this chapter, health
29 care professionals who are licensed or certified pursuant to chapters
30 18.06, ((18.19,)) 18.-- (sections 1 through 16 of this act), 18.22,
31 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.64, 18.79,
32 18.83, 18.89, 18.108, and 18.138 RCW may join and render their
33 individual professional services through one limited liability
34 partnership and are to be considered, for the purpose of forming a
35 limited liability partnership, as rendering the "same specific
36 professional services" or "same professional services" or similar
37 terms.

1 (b) Notwithstanding any other provision of this chapter, health
2 care professionals who are licensed pursuant to chapters 18.57 and
3 18.71 RCW may join and render their individual professional services
4 through one limited liability partnership and are to be considered, for
5 the purpose of forming a limited liability partnership, as rendering
6 the "same specific professional services" or "same professional
7 services" or similar terms.

8 (c) Formation of a limited liability partnership under this
9 subsection does not restrict the application of the uniform
10 disciplinary act under chapter 18.130 RCW, or any applicable health
11 care professional statutes under Title 18 RCW, including but not
12 limited to restrictions on persons practicing a health profession
13 without being appropriately credentialed and persons practicing beyond
14 the scope of their credential.

15 **Sec. 32.** RCW 25.15.045 and 1999 c 128 s 2 are each amended to read
16 as follows:

17 (1) A person or group of persons licensed or otherwise legally
18 authorized to render professional services within this or any other
19 state may organize and become a member or members of a professional
20 limited liability company under the provisions of this chapter for the
21 purposes of rendering professional service. A "professional limited
22 liability company" is subject to all the provisions of chapter 18.100
23 RCW that apply to a professional corporation, and its managers,
24 members, agents, and employees shall be subject to all the provisions
25 of chapter 18.100 RCW that apply to the directors, officers,
26 shareholders, agents, or employees of a professional corporation,
27 except as provided otherwise in this section. Nothing in this section
28 prohibits a person duly licensed or otherwise legally authorized to
29 render professional services in any jurisdiction other than this state
30 from becoming a member of a professional limited liability company
31 organized for the purpose of rendering the same professional services.
32 Nothing in this section prohibits a professional limited liability
33 company from rendering professional services outside this state through
34 individuals who are not duly licensed or otherwise legally authorized
35 to render such professional services within this state. Persons
36 engaged in a profession and otherwise meeting the requirements of this
37 chapter may operate under this chapter as a professional limited
38 liability company so long as each member personally engaged in the

1 practice of the profession in this state is duly licensed or otherwise
2 legally authorized to practice the profession in this state and:

3 (a) At least one manager of the company is duly licensed or
4 otherwise legally authorized to practice the profession in this state;
5 or

6 (b) Each member in charge of an office of the company in this state
7 is duly licensed or otherwise legally authorized to practice the
8 profession in this state.

9 (2) If the company's members are required to be licensed to
10 practice such profession, and the company fails to maintain for itself
11 and for its members practicing in this state a policy of professional
12 liability insurance, bond, or other evidence of financial
13 responsibility of a kind designated by rule by the state insurance
14 commissioner and in the amount of at least one million dollars or a
15 greater amount as the state insurance commissioner may establish by
16 rule for a licensed profession or for any specialty within a
17 profession, taking into account the nature and size of the business,
18 then the company's members are personally liable to the extent that,
19 had the insurance, bond, or other evidence of responsibility been
20 maintained, it would have covered the liability in question.

21 (3) For purposes of applying the provisions of chapter 18.100 RCW
22 to a professional limited liability company, the terms "director" or
23 "officer" means manager, "shareholder" means member, "corporation"
24 means professional limited liability company, "articles of
25 incorporation" means certificate of formation, "shares" or "capital
26 stock" means a limited liability company interest, "incorporator" means
27 the person who executes the certificate of formation, and "bylaws"
28 means the limited liability company agreement.

29 (4) The name of a professional limited liability company must
30 contain either the words "Professional Limited Liability Company," or
31 the words "Professional Limited Liability" and the abbreviation "Co.,"
32 or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a
33 professional limited liability company organized to render dental
34 services shall contain the full names or surnames of all members and no
35 other word than "chartered" or the words "professional services" or the
36 abbreviation "P.L.L.C." or "PLLC."

37 (5) Subject to the provisions in article VII of this chapter, the
38 following may be a member of a professional limited liability company

1 and may be the transferee of the interest of an ineligible person or
2 deceased member of the professional limited liability company:

3 (a) A professional corporation, if its shareholders, directors, and
4 its officers other than the secretary and the treasurer, are licensed
5 or otherwise legally authorized to render the same specific
6 professional services as the professional limited liability company;
7 and

8 (b) Another professional limited liability company, if the managers
9 and members of both professional limited liability companies are
10 licensed or otherwise legally authorized to render the same specific
11 professional services.

12 (6)(a) Notwithstanding any other provision of this chapter, health
13 care professionals who are licensed or certified pursuant to chapters
14 18.06, ((18.19,)) 18.-- (sections 1 through 16 of this act), 18.22,
15 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A,
16 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may
17 own membership interests in and render their individual professional
18 services through one limited liability company and are to be
19 considered, for the purpose of forming a limited liability company, as
20 rendering the "same specific professional services" or "same
21 professional services" or similar terms.

22 (b) Notwithstanding any other provision of this chapter, health
23 care professionals who are regulated under chapters 18.59 and 18.74 RCW
24 may own membership interests in and render their individual
25 professional services through one limited liability company formed for
26 the sole purpose of providing professional services within their
27 respective scope of practice.

28 (c) Formation of a limited liability company under this subsection
29 does not restrict the application of the uniform disciplinary act under
30 chapter 18.130 RCW, or any applicable health care professional statutes
31 under Title 18 RCW, including but not limited to restrictions on
32 persons practicing a health profession without being appropriately
33 credentialed and persons practicing beyond the scope of their
34 credential.

35 **Sec. 33.** RCW 48.43.087 and 1996 c 304 s 1 are each amended to read
36 as follows:

37 (1) For purposes of this section:

1 (a) "Health carrier" includes disability insurers regulated under
2 chapter 48.20 or 48.21 RCW, health care services contractors regulated
3 under chapter 48.44 RCW, plans operating under the health care
4 authority under chapter 41.05 RCW, the basic health plan operating
5 under chapter 70.47 RCW, the state health insurance pool operating
6 under chapter 48.41 RCW, insuring entities regulated under this
7 chapter, and health maintenance organizations regulated under chapter
8 48.46 RCW.

9 (b) "Intermediary" means a person duly authorized to negotiate and
10 execute provider contracts with health carriers on behalf of mental
11 health care practitioners.

12 (c) Consistent with their lawful scopes of practice, "mental health
13 care practitioners" includes only the following: Any generally
14 recognized medical specialty of practitioners licensed under chapter
15 18.57 or 18.71 RCW who provide mental health services, advanced
16 practice psychiatric nurses as authorized by the nursing care quality
17 assurance commission under chapter 18.79 RCW, psychologists licensed
18 under chapter 18.83 RCW, ~~((social workers, marriage and family~~
~~therapists, and mental health counselors certified under chapter 18.19~~
~~RCW)) and mental health counselors, marriage and family therapists, and~~
~~social workers licensed under chapter 18.-- RCW (sections 1 through 16~~
~~of this act).~~

23 (d) "Mental health services" means outpatient services.

24 (2) Consistent with federal and state law and rule, no contract
25 between a mental health care practitioner and an intermediary or
26 between a mental health care practitioner and a health carrier that is
27 written, amended, or renewed after June 6, 1996, may contain a
28 provision prohibiting a practitioner and an enrollee from agreeing to
29 contract for services solely at the expense of the enrollee as follows:

30 (a) On the exhaustion of the enrollee's mental health care
31 coverage;

32 (b) During an appeal or an adverse certification process;

33 (c) When an enrollee's condition is excluded from coverage; or

34 (d) For any other clinically appropriate reason at any time.

35 (3) If a mental health care practitioner provides services to an
36 enrollee during an appeal or adverse certification process, the
37 practitioner must provide to the enrollee written notification that the
38 enrollee is responsible for payment of these services, unless the
39 health carrier elects to pay for services provided.

1 (4) This section does not apply to a mental health care
2 practitioner who is employed full time on the staff of a health
3 carrier.

4 NEW SECTION. **Sec. 34.** A new section is added to chapter 70.02 RCW
5 to read as follows:

6 Mental health counselors, marriage and family therapists, and
7 social workers licensed under chapter 18.-- RCW (sections 1 through 16
8 of this act) are subject to this chapter.

9 NEW SECTION. **Sec. 35.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 36.** Sections 1 through 16 of this act
14 constitute a new chapter in Title 18 RCW.

15 NEW SECTION. **Sec. 37.** The following acts or parts of acts are
16 each repealed:

17 (1) RCW 18.19.070 (Council established--Membership--
18 Qualifications--Removal--Vacancy--Duties and powers--Compensation) and
19 1996 c 191 s 4, 1994 sp.s. c 9 s 501, 1991 c 3 s 22, & 1987 c 512 s 7;

20 (2) RCW 18.19.110 (Certification of social workers) and 1991 c 3 s
21 26 & 1987 c 512 s 12;

22 (3) RCW 18.19.120 (Certification of mental health counselors--
23 Practice defined--Continuing education) and 1995 c 183 s 1, 1991 c 3 s
24 27, & 1987 c 512 s 13;

25 (4) RCW 18.19.130 (Certification of marriage and family
26 therapists--Practice defined) and 1993 c 259 s 1, 1991 c 3 s 28, & 1987
27 c 512 s 14;

28 (5) RCW 18.19.140 (Applications for certification) and 1991 c 3 s
29 29 & 1987 c 512 s 17;

30 (6) RCW 18.19.150 (Examination of applicants for certification) and
31 1991 c 3 s 30 & 1987 c 512 s 16;

32 (7) RCW 18.19.160 (Certification of persons credentialed out-of-
33 state--Temporary retirement of certified persons) and 1991 c 3 s 31 &
34 1987 c 512 s 19; and

1 (8) RCW 18.19.170 (Renewal of certificates--Continuing education)
2 and 1998 c 32 s 1, 1996 c 191 s 6, 1991 c 3 s 32, & 1987 c 512 s 15."

3 Correct the title.

--- END ---