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HOUSE BILL 1761

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Ogden, Tokuda, Edmonds, Dunshee, Ruderman, Delvin, Cody, Jarrett, Edwards, Darneille, Kagi and Santos

Read first time 02/02/2001. Referred to Committee on Health Care.

1 AN ACT Relating to licensed mental health counselors, marriage and  
2 family therapists, and social workers; amending RCW 18.120.020,  
3 18.130.040, 5.60.060, 18.100.050, 18.205.090, 25.05.510, 25.15.045, and  
4 48.43.087; reenacting and amending RCW 9A.44.010; adding a new section  
5 to chapter 70.02 RCW; adding a new chapter to Title 18 RCW; and  
6 repealing RCW 18.19.010, 18.19.020, 18.19.030, 18.19.040, 18.19.050,  
7 18.19.060, 18.19.070, 18.19.080, 18.19.090, 18.19.100, 18.19.110,  
8 18.19.120, 18.19.130, 18.19.140, 18.19.150, 18.19.160, 18.19.170,  
9 18.19.180, 18.19.190, 18.19.900, and 18.19.901.

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

11 NEW SECTION. **Sec. 1.** Unless the context clearly requires  
12 otherwise, the definitions in this section apply throughout this  
13 chapter.

14 (1) "Advanced social work" means the knowledge and ability to apply  
15 social work theory and methods including emotional and biopsychosocial  
16 assessment, psychotherapy under the supervision of a licensed  
17 independent clinical social worker, case management, consultation,  
18 advocacy, counseling, and community organization.

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

5 (3) "Commission" means the Washington state mental health  
6 counselors, marriage and family therapists, and social workers quality  
7 assurance commission.

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

9 (5) "Disciplining authority" means the commission.

10 (6) "Independent clinical social work" means the knowledge and  
11 ability to diagnose and treat emotional disorders through accepted  
12 mental health practices in counseling, psychotherapy, and social work  
13 practice as defined in the advanced social work. Treatment modalities  
14 include but are not limited to work with children, adolescents, and/or  
15 adults, as individuals, in couples, families, groups, or organizations.

16 (7) "Marriage and family therapy" means the diagnosis and treatment  
17 of mental and emotional disorders, whether cognitive, affective, or  
18 behavioral, within the context of relationships, including marriage and  
19 family systems. Marriage and family therapy involves the professional  
20 application of psychotherapeutic and family systems theories and  
21 techniques in the delivery of services to individuals, couples, and  
22 families for the purpose of treating such diagnosed nervous and mental  
23 disorders.

24 (8) "Mental health counseling" means the application of principles  
25 of human development, learning theory, psychotherapy, group dynamics,  
26 and etiology of mental illness and dysfunctional behavior to  
27 individuals, couples, families, groups, and organizations, for the  
28 purpose of treatment of mental disorders and promoting optimal mental  
29 health and functionality. Mental health counseling also includes, but  
30 is not limited to, the assessment, diagnosis, and treatment of mental  
31 and emotional disorders, as well as the application of a wellness model  
32 of mental health.

33 (9) "Practice of marriage and family therapy" means the rendering  
34 of professional marriage and family therapy services to individuals,  
35 couples, and families, singly or in groups, whether such services are  
36 offered directly to the general public or through organizations, either  
37 public or private, for a fee, monetary or otherwise.

38 (10) "Secretary" means the secretary of health or the secretary's  
39 designee.

1        NEW SECTION.    **Sec. 2.**    A person must not represent himself or  
2 herself as a licensed advanced social worker, licensed independent  
3 clinical social worker, licensed mental health counselor, or licensed  
4 marriage and family therapist, without applying for licensure, meeting  
5 the required qualifications, and being licensed by the department,  
6 unless otherwise exempted by this chapter.

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

9            (1) The practice of marriage and family therapy, mental health  
10 counseling, and social work by an individual otherwise regulated under  
11 this title and performing services within the authorized scope of  
12 practice;

13            (2) The practice of marriage and family therapy, mental health  
14 counseling, and social work by an individual employed by the government  
15 of the United States while engaged in the performance of duties  
16 prescribed by the laws of the United States;

17            (3) The practice of marriage and family therapy, mental health  
18 counseling, and social work by a person who is a regular student in an  
19 educational program approved by the commission, and whose performance  
20 of services is pursuant to a regular course of instruction or  
21 assignments from an instructor and under the general supervision of the  
22 instructor;

23            (4) The practice of marriage and family therapy, mental health  
24 counseling, and social work by a person issued a temporary permit by  
25 the commission;

26            (5) The practice of marriage and family therapy, mental health  
27 counseling, and social work employed by a religious denomination,  
28 church, or religious organization.

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

31            (1) Adopt rules under chapter 34.05 RCW necessary to implement this  
32 chapter;

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

35            (3) Establish forms and procedures necessary to administer this  
36 chapter;

1 (4) Issue licenses to applicants who have met the education,  
2 training, and examination requirements for licensure and to deny a  
3 license to applicants who do not meet the requirements, except that  
4 proceedings concerning the denial of licensure based upon  
5 unprofessional conduct or impairment shall be governed by the  
6 commission and by the uniform disciplinary act, chapter 18.130 RCW;

7 (5) Hire clerical, administrative, investigative, and other staff  
8 as needed to implement this chapter, and hire individuals licensed  
9 under this chapter to serve as examiners for any practical  
10 examinations;

11 (6) Administer and supervise the grading and taking of examinations  
12 for applicants for licensure;

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

16 (8) Implement and administer a program for consumer education in  
17 consultation with the commission;

18 (9) Adopt rules implementing a continuing education program in  
19 consultation with the commission;

20 (10) Maintain the official record of all applicants and licensees;  
21 and

22 (11) Establish by rule the procedures for an appeal of an  
23 examination failure.

24 NEW SECTION. **Sec. 5.** The secretary shall keep an official record  
25 of all proceedings. A part of the record shall consist of a register  
26 of all applicants for licensing under this chapter and the results of  
27 each application.

28 NEW SECTION. **Sec. 6.** The Washington state mental health  
29 counselors, marriage and family therapists, and social workers quality  
30 assurance commission is established.

31 (1) The commission shall be comprised of nine members. Two members  
32 shall be licensed mental health counselors. Two members shall be  
33 licensed marriage and family therapists. One member shall be a  
34 licensed independent clinical social worker, and one member shall be a  
35 licensed advanced social worker. Three members must be consumers and  
36 represent the public at large and may not be licensed mental health  
37 care providers.

1 (2) Three members shall be appointed for a term of one year, three  
2 members shall be appointed for a term of two years, and three members  
3 shall be appointed for a term of three years. Subsequent members shall  
4 be appointed for terms of three years. A person must not serve as a  
5 member for more than two consecutive terms.

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

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

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

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

16 (4) The governor shall appoint the commission members. The  
17 governor shall fill any vacancy for the unexpired term by appointment.

18 (5) A quorum of five commission members is required for purposes of  
19 transacting business.

20 (6) Commissioners are immune from suit in an action, civil or  
21 criminal, based on its disciplinary proceedings or other official acts  
22 performed in good faith.

23 (7) Commissioners shall be compensated in accordance with RCW  
24 43.03.240, including travel expenses in carrying out his or her  
25 authorized duties in accordance with RCW 43.03.050 and 43.03.060.

26 (8) The commission shall elect a chair and vice-chair.

27 NEW SECTION. **Sec. 7.** The disciplining authority has the following  
28 authority:

29 (1) To adopt, amend, and rescind such rules as are deemed necessary  
30 to carry out this chapter;

31 (2) To investigate all complaints or reports of unprofessional  
32 conduct as defined in this chapter and to hold hearings as provided in  
33 this chapter;

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

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

- 1 (5) To compel attendance of witnesses at hearings;
- 2 (6) To take emergency action ordering summary suspension of a  
3 license, or restriction or limitation of the licensee's practice  
4 pending proceedings by the disciplining authority;
- 5 (7) To use a presiding officer as authorized in RCW 18.130.095(3)  
6 or the office of administrative hearings as authorized in chapter 34.12  
7 RCW to conduct hearings. The disciplining authority shall make the  
8 final decision regarding disposition of the license unless the  
9 disciplining authority elects to delegate in writing the final decision  
10 to the presiding officer;
- 11 (8) To use licensed members of the commission to direct  
12 investigations;
- 13 (9) To enter into contracts for professional services determined to  
14 be necessary for adequate enforcement of this chapter;
- 15 (10) To contract with licensees or other persons or organizations  
16 to provide services necessary for the monitoring and supervision of  
17 licensees who are placed on probation, whose professional activities  
18 are restricted, or who are for any authorized purpose subject to  
19 monitoring by the disciplining authority;
- 20 (11) To adopt standards of professional conduct or practice;
- 21 (12) To grant or deny license applications, and in the event of a  
22 finding of unprofessional conduct by an applicant or license holder, to  
23 impose any sanction against a license applicant or license holder  
24 provided by this chapter;
- 25 (13) To designate individuals authorized to sign subpoenas and  
26 statements of charges;
- 27 (14) To establish panels consisting of three or more members of the  
28 commission to perform any duty or authority within the commission's  
29 jurisdiction under this chapter;
- 30 (15) To review and audit the records of health facilities in which  
31 a licensee's practice privilege or employment is terminated or  
32 restricted. Each health facility shall produce and make accessible to  
33 the disciplining authority the appropriate records and otherwise  
34 facilitate the review and audit. Information so gained shall not be  
35 subject to discovery or introduction into evidence in any civil action  
36 pursuant to RCW 70.41.200(3).

37 NEW SECTION. **Sec. 8.** (1) The secretary shall issue a license to  
38 any applicant who demonstrates to the satisfaction of the commission

1 that the applicant meets the following education and experience  
2 requirements for the applicant's practice area.

3 (a) Licensed social work classifications:

4 (i) Licensed advanced social worker:

5 (A) Graduation from a master's or doctorate educational program  
6 approved by the commission based upon nationally recognized standards;

7 (B) Successful completion of an approved examination; and

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

9 The experience requirement consists of a minimum of three thousand two  
10 hundred hours of experience, of which eight hundred hours must be  
11 direct client contact, over a two-year period as a licensed social  
12 worker, with supervision of at least ninety hours by a licensed mental  
13 health practitioner. Of the total supervision, fifty hours must be  
14 with an independent clinical social worker; the other forty hours may  
15 be with an equally qualified mental health practitioner. Forty hours  
16 must be in one-to-one supervision and fifty hours may be in one-to-one  
17 supervision or group supervision. Distance supervision is limited to  
18 forty supervision hours.

19 (ii) Licensed independent clinical social worker:

20 (A) Graduation from a master's or doctorate level educational  
21 program approved by the commission based upon nationally recognized  
22 standards;

23 (B) Successful completion of an approved examination; and

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

25 The experience requirement consists of a minimum of four thousand hours  
26 of experience, of which one thousand hours must be direct client  
27 contact, over a three-year period as a licensed social worker, licensed  
28 master level social worker, or licensed advanced social worker, with  
29 supervision of at least one hundred thirty hours by a licensed mental  
30 health practitioner. Of the total supervision, seventy hours must be  
31 with an independent clinical social worker; the other sixty hours may  
32 be with an equally qualified mental health practitioner. Sixty hours  
33 must be in one-to-one supervision and seventy hours may be in one-to-  
34 one supervision or group supervision. Distance supervision is limited  
35 to sixty supervision hours.

36 (b) Licensed mental health counselor:

37 (i) Graduation from a master's or doctoral level educational  
38 program in mental health counseling or a related discipline from a

1 college or university approved by the commission based upon nationally  
2 recognized standards;

3 (ii) Successful completion of an approved examination; and

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

5 The experience requirement consists of a minimum of thirty-six months  
6 full-time counseling or three thousand hours of postgraduate mental  
7 health counseling under the supervision of a qualified licensed mental  
8 health counselor in an approved setting. The three thousand hours of  
9 required experience includes a minimum of one hundred hours spent in  
10 immediate supervision with the qualified licensed mental health  
11 counselor, and includes a minimum of one thousand two hundred hours of  
12 direct counseling with individuals, couples, families, or groups.

13 (c) Licensed marriage and family therapist:

14 Graduation from a master's degree or doctoral degree educational  
15 program in marriage and family therapy or graduation from an  
16 educational program in an allied field equivalent to a master's degree  
17 or doctoral degree in marriage and family therapy approved by the  
18 commission based upon nationally recognized standards.

19 (d) Licensed marriage and family therapist:

20 (i) Graduation from a master's degree or doctoral degree  
21 educational program in marriage and family therapy or graduation from  
22 an educational program in an allied field equivalent to a master's  
23 degree or doctoral degree in marriage and family therapy approved by  
24 the commission based upon nationally recognized standards;

25 (ii) Successful passage of an approved examination; and

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

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

33 (A) A minimum of three thousand hours of experience, one thousand  
34 hours of which must be direct client contact; at least five hundred  
35 hours must be gained in diagnosing and treating couples and families;  
36 plus

37 (B) At least two hundred hours of qualified supervision with a  
38 supervisor. At least one hundred of the two hundred hours must be one-

1 on-one supervision, and the remaining hours may be in one-on-one or  
2 group supervision.

3 Applicants who have completed a master's program accredited by the  
4 commission on accreditation for marriage and family therapy education  
5 of the American association for marriage and family therapy may be  
6 credited with five hundred hours of direct client contact and one  
7 hundred hours of formal meetings with an approved supervisor.

8 (2) The commission shall establish by rule what constitutes  
9 adequate proof of meeting the criteria.

10 (3) In addition, applicants shall be subject to the grounds for  
11 denial of a license or issuance of a conditional license under chapter  
12 18.130 RCW.

13 NEW SECTION. **Sec. 9.** Mental health counselors, marriage and  
14 family therapists, and social workers licensed under this chapter shall  
15 biennially attend at least thirty-six hours of continuing education  
16 approved by the commission as a condition of license renewal, of which  
17 six hours must be devoted to professional law and ethics. In approving  
18 the curricula, the commission shall consider the educational and  
19 training standards of nationally recognized professional organizations  
20 of social work, mental health counseling, and marriage and family  
21 therapy and accredited schools offering graduate degrees in these  
22 programs in the state of Washington.

23 NEW SECTION. **Sec. 10.** The commission shall establish by rule  
24 educational, experience, and alternative training requirements. The  
25 commission may utilize or contract with individuals or organizations  
26 having expertise in the profession or in education to assist in the  
27 evaluations. The commission shall establish by rule the standards and  
28 procedures for revocation of approval of education programs. The  
29 standards and procedures set shall apply equally to educational  
30 programs and training in the United States and in foreign  
31 jurisdictions. The secretary may establish a fee for educational  
32 program evaluations.

33 NEW SECTION. **Sec. 11.** A person licensed under this chapter must  
34 provide clients at the commencement of any program of treatment with  
35 accurate disclosure information concerning the practice, in accordance  
36 with rules adopted by the commission, including the right of clients to

1 refuse treatment, the responsibility of clients to choose the provider  
2 and treatment modality which best suits their needs, and the extent of  
3 confidentiality provided by this chapter. The disclosure information  
4 must also include the license holder's professional education and  
5 training, the therapeutic orientation of the practice, the proposed  
6 course of treatment where known, financial requirements, and such other  
7 information as required by rule. The disclosure must be acknowledged  
8 in writing by the client and license holder.

9 NEW SECTION. **Sec. 12.** (1) The date and location of examinations  
10 shall be established by the secretary. Applicants who have been found  
11 by the secretary to meet the other requirements for licensure shall be  
12 scheduled for the next examination following the filing of the  
13 application. The secretary shall establish by rule the examination  
14 application deadline.

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

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

25 (4) Any applicant failing to make the required grade in the first  
26 examination may take up to three subsequent examinations as the  
27 applicant desires upon prepaying a fee determined by the secretary  
28 under RCW 43.70.250 for each subsequent examination. Upon failing four  
29 examinations, the secretary may invalidate the original application and  
30 require such remedial education before the person may take future  
31 examinations.

32 (5) 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. 13.** Applications for licensing shall be  
36 submitted on forms provided by the secretary. The secretary may  
37 require any information and documentation which reasonably relates to

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

5 NEW SECTION. **Sec. 14.** Any person certified for more than one year  
6 under chapter 18.19 RCW is eligible for a license as an advanced social  
7 worker, an independent clinical social worker, a marriage and family  
8 therapist, or a mental health counselor under this chapter without  
9 taking the examination. Any person who is a certified social worker  
10 and has been licensed for less than a year may become licensed if the  
11 additional supervision and experience requirements are met.

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

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

24 NEW SECTION. **Sec. 17.** The uniform disciplinary act, chapter  
25 18.130 RCW, shall govern the issuance and denial of licenses,  
26 unauthorized practice, and the discipline of persons licensed under  
27 this chapter. The commission, with the assistance of the secretary,  
28 shall be the disciplining authority under this chapter and may adopt  
29 rules establishing additional standards of unprofessional conduct for  
30 persons licensed under this chapter.

31 NEW SECTION. **Sec. 18.** This chapter shall not be construed as  
32 permitting the administration or prescription of drugs or in any way  
33 infringing upon the practice of medicine and surgery as defined in  
34 chapter 18.71 RCW, or in any way infringing upon the practice of

1 psychology as defined in chapter 18.83 RCW, or restricting the scope of  
2 the practice of counseling for those registered under chapter 18.19  
3 RCW, or restricting the scope of practice of persons licensed under  
4 this chapter.

5 **Sec. 19.** RCW 18.120.020 and 2000 c 93 s 15 are each amended to  
6 read as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) "Applicant group" includes any health professional group or  
10 organization, any individual, or any other interested party which  
11 proposes that any health professional group not presently regulated be  
12 regulated or which proposes to substantially increase the scope of  
13 practice of the profession.

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

19 (3) "Grandfather clause" means a provision in a regulatory statute  
20 applicable to practitioners actively engaged in the regulated health  
21 profession prior to the effective date of the regulatory statute which  
22 exempts the practitioners from meeting the prerequisite qualifications  
23 set forth in the regulatory statute to perform prescribed occupational  
24 tasks.

25 (4) "Health professions" means and includes the following health  
26 and health-related licensed or regulated professions and occupations:  
27 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic  
28 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;  
29 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;  
30 dispensing opticians under chapter 18.34 RCW; hearing instruments under  
31 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and  
32 funeral directing under chapter 18.39 RCW; midwifery under chapter  
33 18.50 RCW; nursing home administration under chapter 18.52 RCW;  
34 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter  
35 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and  
36 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine  
37 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter  
38 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses

1 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;  
2 registered nurses under chapter 18.79 RCW; occupational therapists  
3 licensed under chapter 18.59 RCW; respiratory care practitioners  
4 licensed under chapter 18.89 RCW; veterinarians and veterinary  
5 technicians under chapter 18.92 RCW; health care assistants under  
6 chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW;  
7 acupuncturists licensed under chapter 18.06 RCW; (~~persons registered~~  
8 ~~or certified under chapter 18.19 RCW;~~) persons licensed as mental  
9 health counselors, marriage and family therapists, and social workers  
10 under chapter 18.-- RCW (sections 1 through 18 of this act); dietitians  
11 and nutritionists certified by chapter 18.138 RCW; radiologic  
12 technicians under chapter 18.84 RCW; and nursing assistants registered  
13 or certified under chapter 18.88A RCW.

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

18 (6) "Legislative committees of reference" means the standing  
19 legislative committees designated by the respective rules committees of  
20 the senate and house of representatives to consider proposed  
21 legislation to regulate health professions not previously regulated.

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

27 (8) "Professional license" means an individual, nontransferable  
28 authorization to carry on a health activity based on qualifications  
29 which include: (a) Graduation from an accredited or approved program,  
30 and (b) acceptable performance on a qualifying examination or series of  
31 examinations.

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

35 (10) "Public member" means an individual who is not, and never was,  
36 a member of the health profession being regulated or the spouse of a  
37 member, or an individual who does not have and never has had a material  
38 financial interest in either the rendering of the health professional

1 service being regulated or an activity directly related to the  
2 profession being regulated.

3 (11) "Registration" means the formal notification which, prior to  
4 rendering services, a practitioner shall submit to a state agency  
5 setting forth the name and address of the practitioner; the location,  
6 nature and operation of the health activity to be practiced; and, if  
7 required by the regulatory entity, a description of the service to be  
8 provided.

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

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

17 **Sec. 20.** RCW 18.130.040 and 1999 c 335 s 10 are each amended to  
18 read as follows:

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

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

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

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

28 (iii) Midwives licensed under chapter 18.50 RCW;

29 (iv) Ocularists licensed under chapter 18.55 RCW;

30 (v) Massage operators and businesses licensed under chapter 18.108  
31 RCW;

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

33 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

36 (ix) Respiratory care practitioners licensed under chapter 18.89  
37 RCW;

1       (x) (~~Persons registered or certified under chapter 18.19 RCW~~)  
2 Persons licensed as mental health counselors, marriage and family  
3 therapists, and social workers under chapter 18.-- RCW (sections 1  
4 through 18 of this act);  
5       (xi) Persons registered as nursing pool operators under chapter  
6 18.52C RCW;  
7       (xii) Nursing assistants registered or certified under chapter  
8 18.88A RCW;  
9       (xiii) Health care assistants certified under chapter 18.135 RCW;  
10       (xiv) Dietitians and nutritionists certified under chapter 18.138  
11 RCW;  
12       (xv) Chemical dependency professionals certified under chapter  
13 18.205 RCW;  
14       (xvi) Sex offender treatment providers certified under chapter  
15 18.155 RCW;  
16       (xvii) Persons licensed and certified under chapter 18.73 RCW or  
17 RCW 18.71.205;  
18       (xviii) Persons registered as adult family home providers and  
19 resident managers under RCW 18.48.020;  
20       (xix) Denturists licensed under chapter 18.30 RCW;  
21       (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;  
22 and  
23       (xxi) Surgical technologists registered under chapter 18.215 RCW.  
24       (b) The boards and commissions having authority under this chapter  
25 are as follows:  
26       (i) The podiatric medical board as established in chapter 18.22  
27 RCW;  
28       (ii) The chiropractic quality assurance commission as established  
29 in chapter 18.25 RCW;  
30       (iii) The dental quality assurance commission as established in  
31 chapter 18.32 RCW;  
32       (iv) The board of hearing and speech as established in chapter  
33 18.35 RCW;  
34       (v) The board of examiners for nursing home administrators as  
35 established in chapter 18.52 RCW;  
36       (vi) The optometry board as established in chapter 18.54 RCW  
37 governing licenses issued under chapter 18.53 RCW;

1 (vii) The board of osteopathic medicine and surgery as established  
2 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
3 18.57A RCW;

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

6 (ix) The medical quality assurance commission as established in  
7 chapter 18.71 RCW governing licenses and registrations issued under  
8 chapters 18.71 and 18.71A RCW;

9 (x) The board of physical therapy as established in chapter 18.74  
10 RCW;

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

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

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

17 (xiv) The veterinary board of governors as established in chapter  
18 18.92 RCW.

19 (3) In addition to the authority to discipline license holders, the  
20 disciplining authority has the authority to grant or deny licenses  
21 based on the conditions and criteria established in this chapter and  
22 the chapters specified in subsection (2) of this section. This chapter  
23 also governs any investigation, hearing, or proceeding relating to  
24 denial of licensure or issuance of a license conditioned on the  
25 applicant's compliance with an order entered pursuant to RCW 18.130.160  
26 by the disciplining authority.

27 (4) All disciplining authorities shall adopt procedures to ensure  
28 substantially consistent application of this chapter, the Uniform  
29 Disciplinary Act, among the disciplining authorities listed in  
30 subsection (2) of this section.

31 **Sec. 21.** RCW 5.60.060 and 1998 c 72 s 1 are each amended to read  
32 as follows:

33 (1) A husband shall not be examined for or against his wife,  
34 without the consent of the wife, nor a wife for or against her husband  
35 without the consent of the husband; nor can either during marriage or  
36 afterward, be without the consent of the other, examined as to any  
37 communication made by one to the other during marriage. But this  
38 exception shall not apply to a civil action or proceeding by one

1 against the other, nor to a criminal action or proceeding for a crime  
2 committed by one against the other, nor to a criminal action or  
3 proceeding against a spouse if the marriage occurred subsequent to the  
4 filing of formal charges against the defendant, nor to a criminal  
5 action or proceeding for a crime committed by said husband or wife  
6 against any child of whom said husband or wife is the parent or  
7 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:  
8 PROVIDED, That the spouse of a person sought to be detained under  
9 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall  
10 be so informed by the court prior to being called as a witness.

11 (2)(a) An attorney or counselor shall not, without the consent of  
12 his or her client, be examined as to any communication made by the  
13 client to him or her, or his or her advice given thereon in the course  
14 of professional employment.

15 (b) A parent or guardian of a minor child arrested on a criminal  
16 charge may not be examined as to a communication between the child and  
17 his or her attorney if the communication was made in the presence of  
18 the parent or guardian. This privilege does not extend to  
19 communications made prior to the arrest.

20 (3) A member of the clergy or a priest shall not, without the  
21 consent of a person making the confession, be examined as to any  
22 confession made to him or her in his or her professional character, in  
23 the course of discipline enjoined by the church to which he or she  
24 belongs.

25 (4) Subject to the limitations under RCW 70.96A.140 or 71.05.250,  
26 a physician or surgeon or osteopathic physician or surgeon or podiatric  
27 physician or surgeon shall not, without the consent of his or her  
28 patient, be examined in a civil action as to any information acquired  
29 in attending such patient, which was necessary to enable him or her to  
30 prescribe or act for the patient, except as follows:

31 (a) In any judicial proceedings regarding a child's injury,  
32 neglect, or sexual abuse or the cause thereof; and

33 (b) Ninety days after filing an action for personal injuries or  
34 wrongful death, the claimant shall be deemed to waive the physician-  
35 patient privilege. Waiver of the physician-patient privilege for any  
36 one physician or condition constitutes a waiver of the privilege as to  
37 all physicians or conditions, subject to such limitations as a court  
38 may impose pursuant to court rules.

1 (5) A public officer shall not be examined as a witness as to  
2 communications made to him or her in official confidence, when the  
3 public interest would suffer by the disclosure.

4 (6)(a) A peer support group counselor shall not, without consent of  
5 the law enforcement officer making the communication, be compelled to  
6 testify about any communication made to the counselor by the officer  
7 while receiving counseling. The counselor must be designated as such  
8 by the sheriff, police chief, or chief of the Washington state patrol,  
9 prior to the incident that results in counseling. The privilege only  
10 applies when the communication was made to the counselor while acting  
11 in his or her capacity as a peer support group counselor. The  
12 privilege does not apply if the counselor was an initial responding  
13 officer, a witness, or a party to the incident which prompted the  
14 delivery of peer support group counseling services to the law  
15 enforcement officer.

16 (b) For purposes of this section, "peer support group counselor"  
17 means a:

18 (i) Law enforcement officer, or civilian employee of a law  
19 enforcement agency, who has received training to provide emotional and  
20 moral support and counseling to an officer who needs those services as  
21 a result of an incident in which the officer was involved while acting  
22 in his or her official capacity; or

23 (ii) Nonemployee counselor who has been designated by the sheriff,  
24 police chief, or chief of the Washington state patrol to provide  
25 emotional and moral support and counseling to an officer who needs  
26 those services as a result of an incident in which the officer was  
27 involved while acting in his or her official capacity.

28 (7) A sexual assault advocate may not, without the consent of the  
29 victim, be examined as to any communication made by the victim to the  
30 sexual assault advocate.

31 (a) For purposes of this section, "sexual assault advocate" means  
32 the employee or volunteer from a rape crisis center, victim assistance  
33 unit, program, or association, that provides information, medical or  
34 legal advocacy, counseling, or support to victims of sexual assault,  
35 who is designated by the victim to accompany the victim to the hospital  
36 or other health care facility and to proceedings concerning the alleged  
37 assault, including police and prosecution interviews and court  
38 proceedings.

1 (b) A sexual assault advocate may disclose a confidential  
2 communication without the consent of the victim if failure to disclose  
3 is likely to result in a clear, imminent risk of serious physical  
4 injury or death of the victim or another person. Any sexual assault  
5 advocate participating in good faith in the disclosing of records and  
6 communications under this section shall have immunity from any  
7 liability, civil, criminal, or otherwise, that might result from the  
8 action. In any proceeding, civil or criminal, arising out of a  
9 disclosure under this section, the good faith of the sexual assault  
10 advocate who disclosed the confidential communication shall be  
11 presumed.

12 (8) A licensed mental health counselor, marriage and family  
13 therapist, or social worker shall not be examined as to any  
14 communications made by his or her client to the licensed mental health  
15 counselor, marriage and family therapist, or social worker in the  
16 course of the professional relationship without the consent of his or  
17 her client. This privilege is limited by the mental health counselor,  
18 marriage and family therapist, or social worker's duty to mandatorily  
19 report abuse and neglect. This privilege is limited by the mental  
20 health counselor, marriage and family therapist, or social worker's  
21 duty to warn of and protect from a client's threatened violent behavior  
22 if the client communicated a serious threat of physical violence  
23 against a reasonably identifiable victim or victims. Communications  
24 remain confidential and privileged even under circumstances where the  
25 client's parent, in the case of a minor, is present at the time of the  
26 communication.

27 **Sec. 22.** RCW 9A.44.010 and 1997 c 392 s 513 and 1997 c 112 s 37  
28 are each reenacted and amended to read as follows:

29 As used in this chapter:

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

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

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

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

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

11 (4) "Mental incapacity" is that condition existing at the time of  
12 the offense which prevents a person from understanding the nature or  
13 consequences of the act of sexual intercourse whether that condition is  
14 produced by illness, defect, the influence of a substance or from some  
15 other cause.

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

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

23 (7) "Consent" means that at the time of the act of sexual  
24 intercourse or sexual contact there are actual words or conduct  
25 indicating freely given agreement to have sexual intercourse or sexual  
26 contact.

27 (8) "Significant relationship" means a situation in which the  
28 perpetrator is:

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

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

34 (c) A person who provides welfare, health or residential  
35 assistance, personal care, or organized recreational activities to  
36 frail elders or vulnerable adults, including a provider, employee,  
37 temporary employee, volunteer, or independent contractor who supplies  
38 services to long-term care facilities licensed or required to be  
39 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home

1 health, hospice, or home care agencies licensed or required to be  
2 licensed under chapter 70.127 RCW, but not including a consensual  
3 sexual partner.

4 (9) "Abuse of a supervisory position" means a direct or indirect  
5 threat or promise to use authority to the detriment or benefit of a  
6 minor.

7 (10) "Developmentally disabled," for purposes of RCW  
8 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a  
9 developmental disability as defined in RCW 71A.10.020.

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

15 (12) "Mentally disordered person" for the purposes of RCW  
16 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental  
17 disorder" as defined in RCW 71.05.020.

18 (13) "Chemically dependent person" for purposes of RCW  
19 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically  
20 dependent" as defined in RCW 70.96A.020(4).

21 (14) "Health care provider" for purposes of RCW 9A.44.050 and  
22 9A.44.100 means a person who is, holds himself or herself out to be, or  
23 provides services as if he or she were: (a) A member of a health care  
24 profession under chapter 18.130 RCW; or (b) (~~registered or certified~~  
25 ~~under chapter 18.19 RCW~~) licensed under chapter 18.-- RCW (sections 1  
26 through 18 of this act), regardless of whether the health care provider  
27 is licensed, certified, or registered by the state.

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

32 (16) "Frail elder or vulnerable adult" means a person sixty years  
33 of age or older who has the functional, mental, or physical inability  
34 to care for himself or herself. "Frail elder or vulnerable adult" also  
35 includes a person found incapacitated under chapter 11.88 RCW, a person  
36 over eighteen years of age who has a developmental disability under  
37 chapter 71A.10 RCW, a person admitted to a long-term care facility that  
38 is licensed or required to be licensed under chapter 18.20, 18.51,  
39 72.36, or 70.128 RCW, and a person receiving services from a home

1 health, hospice, or home care agency licensed or required to be  
2 licensed under chapter 70.127 RCW.

3 **Sec. 23.** RCW 18.100.050 and 1999 c 128 s 1 are each amended to  
4 read as follows:

5 (1) An individual or group of individuals duly licensed or  
6 otherwise legally authorized to render the same professional services  
7 within this state may organize and become a shareholder or shareholders  
8 of a professional corporation for pecuniary profit under the provisions  
9 of Title 23B RCW for the purpose of rendering professional service.  
10 One or more of the legally authorized individuals shall be the  
11 incorporators of the professional corporation.

12 (2) Notwithstanding any other provision of this chapter, registered  
13 architects and registered engineers may own stock in and render their  
14 individual professional services through one professional service  
15 corporation.

16 (3) Licensed health care professionals, providing services to  
17 enrolled participants either directly or through arrangements with a  
18 health maintenance organization registered under chapter 48.46 RCW or  
19 federally qualified health maintenance organization, may own stock in  
20 and render their individual professional services through one  
21 professional service corporation.

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

26 (5)(a) Notwithstanding any other provision of this chapter, health  
27 care professionals who are licensed or certified pursuant to chapters  
28 18.06, (~~(18.197)~~) 18.-- (sections 1 through 18 of this act), 18.22,  
29 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A,  
30 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may  
31 own stock in and render their individual professional services through  
32 one professional service corporation and are to be considered, for the  
33 purpose of forming a professional service corporation, as rendering the  
34 "same specific professional services" or "same professional services"  
35 or similar terms.

36 (b) Notwithstanding any other provision of this chapter, health  
37 care professionals who are regulated under chapters 18.59 and 18.74 RCW  
38 may own stock in and render their individual professional services

1 through one professional service corporation formed for the sole  
2 purpose of providing professional services within their respective  
3 scope of practice.

4 (c) Formation of a professional service corporation under this  
5 subsection does not restrict the application of the uniform  
6 disciplinary act under chapter 18.130 RCW, or applicable health care  
7 professional statutes under Title 18 RCW, including but not limited to  
8 restrictions on persons practicing a health profession without being  
9 appropriately credentialed and persons practicing beyond the scope of  
10 their credential.

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

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

16 (a) Completion of an educational program approved by the secretary  
17 or successful completion of alternate training that meets established  
18 criteria;

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

21 (c) Successful completion of an experience requirement that  
22 establishes fewer hours of experience for applicants with higher levels  
23 of relevant education. In meeting any experience requirement  
24 established under this subsection, the secretary may not require more  
25 than one thousand five hundred hours of experience in chemical  
26 dependency counseling for applicants who are licensed under chapter  
27 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse  
28 practitioners.

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

31 (3) Applicants are subject to the grounds for denial of a  
32 certificate or issuance of a conditional certificate under chapter  
33 18.130 RCW.

34 (4) Certified chemical dependency professionals shall not be  
35 required to be (~~registered under chapter 18.19 RCW~~) licensed under  
36 chapter 18.-- RCW (sections 1 through 18 of this act).

1       **Sec. 25.** RCW 25.05.510 and 1998 c 103 s 1103 are each amended to  
2 read as follows:

3       (1) A person or group of persons licensed or otherwise legally  
4 authorized to render professional services, as defined in RCW  
5 18.100.030, within this state may organize and become a member or  
6 members of a limited liability partnership under the provisions of this  
7 chapter for the purposes of rendering professional service. Nothing in  
8 this section prohibits a person duly licensed or otherwise legally  
9 authorized to render professional services in any jurisdiction other  
10 than this state from becoming a member of a limited liability  
11 partnership organized for the purpose of rendering the same  
12 professional services. Nothing in this section prohibits a limited  
13 liability partnership from rendering professional services outside this  
14 state through individuals who are not duly licensed or otherwise  
15 legally authorized to render such professional services within this  
16 state.

17       (2)(a) Notwithstanding any other provision of this chapter, health  
18 care professionals who are licensed or certified pursuant to chapters  
19 18.06, (~~(18.197)~~) 18.-- (sections 1 through 18 of this act), 18.22,  
20 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.64, 18.79,  
21 18.83, 18.89, 18.108, and 18.138 RCW may join and render their  
22 individual professional services through one limited liability  
23 partnership and are to be considered, for the purpose of forming a  
24 limited liability partnership, as rendering the "same specific  
25 professional services" or "same professional services" or similar  
26 terms.

27       (b) Notwithstanding any other provision of this chapter, health  
28 care professionals who are licensed pursuant to chapters 18.57 and  
29 18.71 RCW may join and render their individual professional services  
30 through one limited liability partnership and are to be considered, for  
31 the purpose of forming a limited liability partnership, as rendering  
32 the "same specific professional services" or "same professional  
33 services" or similar terms.

34       (c) Formation of a limited liability partnership under this  
35 subsection does not restrict the application of the uniform  
36 disciplinary act under chapter 18.130 RCW, or any applicable health  
37 care professional statutes under Title 18 RCW, including but not  
38 limited to restrictions on persons practicing a health profession

1 without being appropriately credentialed and persons practicing beyond  
2 the scope of their credential.

3       **Sec. 26.** RCW 25.15.045 and 1999 c 128 s 2 are each amended to read  
4 as follows:

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

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

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

35       (2) If the company's members are required to be licensed to  
36 practice such profession, and the company fails to maintain for itself  
37 and for its members practicing in this state a policy of professional  
38 liability insurance, bond, or other evidence of financial

1 responsibility of a kind designated by rule by the state insurance  
2 commissioner and in the amount of at least one million dollars or a  
3 greater amount as the state insurance commissioner may establish by  
4 rule for a licensed profession or for any specialty within a  
5 profession, taking into account the nature and size of the business,  
6 then the company's members are personally liable to the extent that,  
7 had the insurance, bond, or other evidence of responsibility been  
8 maintained, it would have covered the liability in question.

9 (3) For purposes of applying the provisions of chapter 18.100 RCW  
10 to a professional limited liability company, the terms "director" or  
11 "officer" means manager, "shareholder" means member, "corporation"  
12 means professional limited liability company, "articles of  
13 incorporation" means certificate of formation, "shares" or "capital  
14 stock" means a limited liability company interest, "incorporator" means  
15 the person who executes the certificate of formation, and "bylaws"  
16 means the limited liability company agreement.

17 (4) The name of a professional limited liability company must  
18 contain either the words "Professional Limited Liability Company," or  
19 the words "Professional Limited Liability" and the abbreviation "Co.,"  
20 or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a  
21 professional limited liability company organized to render dental  
22 services shall contain the full names or surnames of all members and no  
23 other word than "chartered" or the words "professional services" or the  
24 abbreviation "P.L.L.C." or "PLLC."

25 (5) Subject to the provisions in article VII of this chapter, the  
26 following may be a member of a professional limited liability company  
27 and may be the transferee of the interest of an ineligible person or  
28 deceased member of the professional limited liability company:

29 (a) A professional corporation, if its shareholders, directors, and  
30 its officers other than the secretary and the treasurer, are licensed  
31 or otherwise legally authorized to render the same specific  
32 professional services as the professional limited liability company;  
33 and

34 (b) Another professional limited liability company, if the managers  
35 and members of both professional limited liability companies are  
36 licensed or otherwise legally authorized to render the same specific  
37 professional services.

38 (6)(a) Notwithstanding any other provision of this chapter, health  
39 care professionals who are licensed or certified pursuant to chapters

1 18.06, (~~(18.197)~~) 18.-- (sections 1 through 18 of this act), 18.22,  
2 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A,  
3 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may  
4 own membership interests in and render their individual professional  
5 services through one limited liability company and are to be  
6 considered, for the purpose of forming a limited liability company, as  
7 rendering the "same specific professional services" or "same  
8 professional services" or similar terms.

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

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

22 **Sec. 27.** RCW 48.43.087 and 1996 c 304 s 1 are each amended to read  
23 as follows:

24 (1) For purposes of this section:

25 (a) "Health carrier" includes disability insurers regulated under  
26 chapter 48.20 or 48.21 RCW, health care services contractors regulated  
27 under chapter 48.44 RCW, plans operating under the health care  
28 authority under chapter 41.05 RCW, the basic health plan operating  
29 under chapter 70.47 RCW, the state health insurance pool operating  
30 under chapter 48.41 RCW, insuring entities regulated under this  
31 chapter, and health maintenance organizations regulated under chapter  
32 48.46 RCW.

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

36 (c) Consistent with their lawful scopes of practice, "mental health  
37 care practitioners" includes only the following: Any generally  
38 recognized medical specialty of practitioners licensed under chapter

1 18.57 or 18.71 RCW who provide mental health services, advanced  
2 practice psychiatric nurses as authorized by the nursing care quality  
3 assurance commission under chapter 18.79 RCW, psychologists licensed  
4 under chapter 18.83 RCW, (~~social workers, marriage and family~~  
5 ~~therapists, and mental health counselors certified under chapter 18.19~~  
6 ~~RCW)) and mental health counselors, marriage and family therapists, and  
7 social workers licensed under chapter 18.-- RCW (sections 1 through 18  
8 of this act).~~

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

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

16 (a) On the exhaustion of the enrollee's mental health care  
17 coverage;

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

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

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

21 (3) If a mental health care practitioner provides services to an  
22 enrollee during an appeal or adverse certification process, the  
23 practitioner must provide to the enrollee written notification that the  
24 enrollee is responsible for payment of these services, unless the  
25 health carrier elects to pay for services provided.

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

29 NEW SECTION. Sec. 28. A new section is added to chapter 70.02 RCW  
30 to read as follows:

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

34 NEW SECTION. Sec. 29. If any provision of this act or its  
35 application to any person or circumstance is held invalid, the  
36 remainder of the act or the application of the provision to other  
37 persons or circumstances is not affected.

1        NEW SECTION.     **Sec. 30.**     Sections 1 through 18 of this act  
2 constitute a new chapter in Title 18 RCW.

3        NEW SECTION.     **Sec. 31.**     The following acts or parts of acts are  
4 each repealed:

5        (1) RCW 18.19.010 (Legislative findings--Insurance benefits not  
6 mandated) and 1987 c 512 s 1;

7        (2) RCW 18.19.020 (Definitions) and 1991 c 3 s 19 & 1987 c 512 s 3;

8        (3) RCW 18.19.030 (Registration or certification required) and 1991  
9 c 3 s 20 & 1987 c 512 s 2;

10       (4) RCW 18.19.040 (Exemptions) and 1987 c 512 s 4;

11       (5) RCW 18.19.050 (Powers of secretary--Application of uniform  
12 disciplinary act--Public education program) and 1991 c 3 s 21 & 1987 c  
13 512 s 5;

14       (6) RCW 18.19.060 (Information disclosure to clients) and 1987 c  
15 512 s 6;

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

19       (8) RCW 18.19.080 (Official records) and 1991 c 3 s 23 & 1987 c 512  
20 s 8;

21       (9) RCW 18.19.090 (Registration of counselors and hypnotherapists)  
22 and 1991 c 3 s 24 & 1987 c 512 s 9;

23       (10) RCW 18.19.100 (Registration renewal) and 1996 c 191 s 5, 1991  
24 c 3 s 25, & 1987 c 512 s 10;

25       (11) RCW 18.19.110 (Certification of social workers) and 1991 c 3  
26 s 26 & 1987 c 512 s 12;

27       (12) RCW 18.19.120 (Certification of mental health counselors--  
28 Practice defined--Continuing education) and 1995 c 183 s 1, 1991 c 3 s  
29 27, & 1987 c 512 s 13;

30       (13) RCW 18.19.130 (Certification of marriage and family  
31 therapists--Practice defined) and 1993 c 259 s 1, 1991 c 3 s 28, & 1987  
32 c 512 s 14;

33       (14) RCW 18.19.140 (Applications for certification) and 1991 c 3 s  
34 29 & 1987 c 512 s 17;

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

1           (16) RCW 18.19.160 (Certification of persons credentialed out-of-  
2 state--Temporary retirement of certified persons) and 1991 c 3 s 31 &  
3 1987 c 512 s 19;  
4           (17) RCW 18.19.170 (Renewal of certificates--Continuing education)  
5 and 1998 c 32 s 1, 1996 c 191 s 6, 1991 c 3 s 32, & 1987 c 512 s 15;  
6           (18) RCW 18.19.180 (Confidential communications) and 1991 c 3 s 33  
7 & 1987 c 512 s 11;  
8           (19) RCW 18.19.190 (Other professions not affected) and 1987 c 512  
9 s 18;  
10          (20) RCW 18.19.900 (Short title) and 1987 c 512 s 20; and  
11          (21) RCW 18.19.901 (Severability--1987 c 512) and 1987 c 512 s 28.

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