
SUBSTITUTE SENATE BILL 5877

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Winsley, Costa and Kohl-Welles)

READ FIRST TIME 03/05/01.

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

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 application of social work
15 theory and methods including emotional and biopsychosocial assessment,
16 psychotherapy under the supervision of a licensed independent clinical
17 social worker, case management, consultation, advocacy, counseling, and
18 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) "Committee" means the Washington state mental health
6 counselors, marriage and family therapists, and social workers
7 committee.

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

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

10 (6) "Independent clinical social work" means the diagnosis and
11 treatment of emotional and mental disorders based on knowledge of human
12 development, the causation and treatment of psychopathology,
13 psychotherapeutic treatment practices, and social work practice as
14 defined in advanced social work. Treatment modalities include but are
15 not limited to diagnosis and treatment of individuals, couples,
16 families, groups, or organizations.

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

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

34 (9) "Secretary" means the secretary of health or the secretary's
35 designee.

36 NEW SECTION. **Sec. 2.** A person must not represent himself or
37 herself as a licensed advanced social worker, licensed independent
38 clinical social worker, licensed mental health counselor, or licensed

1 marriage and family therapist, or other like terms without applying for
2 licensure, meeting the required qualifications, and being licensed by
3 the department, unless otherwise exempted by this chapter.

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

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

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

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

20 (4) The practice of marriage and family therapy, mental health
21 counseling, or social work by a person issued a temporary permit by the
22 secretary;

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

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

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

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

33 (3) Establish forms and procedures necessary to administer this
34 chapter;

35 (4) Issue licenses to applicants who have met the education,
36 training, and examination requirements for licensure and to deny a

1 license to applicants who do not meet the requirements. The department
2 shall consult with the committee on all disciplinary matters;

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

7 (6) Administer and supervise the grading and taking of examinations
8 for applicants for licensure;

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

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

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

16 (10) Maintain the official record of all applicants and licensees;
17 and

18 (11) Establish by rule the procedures for an appeal of an
19 examination failure.

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

24 NEW SECTION. **Sec. 6.** The Washington state mental health
25 counselors, marriage and family therapists, and social workers
26 committee is established.

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

34 (2) Three members shall be appointed for a term of one year, three
35 members shall be appointed for a term of two years, and three members
36 shall be appointed for a term of three years. Subsequent members shall

1 be appointed for terms of three years. A person must not serve as a
2 member for more than two consecutive terms.

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

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

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

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

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

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

17 (6) Committee members shall be compensated in accordance with RCW
18 43.03.240, including travel expenses in carrying out his or her
19 authorized duties in accordance with RCW 43.03.050 and 43.03.060.

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

21 NEW SECTION. **Sec. 7.** The disciplining authority has the following
22 authority:

23 (1) To adopt, amend, and rescind such rules as are deemed necessary
24 to carry out this chapter. Any rules shall be developed in
25 consultation with the committee;

26 (2) To investigate all complaints or reports of unprofessional
27 conduct as defined in this chapter and to hold hearings as provided in
28 this chapter;

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

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

34 (5) To compel attendance of witnesses at hearings;

35 (6) To take emergency action ordering summary suspension of a
36 license, or restriction or limitation of the licensee's practice
37 pending proceedings by the disciplining authority;

1 (7) To use a presiding officer as authorized in RCW 18.130.095(3)
2 or the office of administrative hearings as authorized in chapter 34.12
3 RCW to conduct hearings. The disciplining authority shall make the
4 final decision regarding disposition of the license unless the
5 disciplining authority elects to delegate in writing the final decision
6 to the presiding officer;

7 (8) To use licensed members of the committee to direct
8 investigations;

9 (9) To enter into contracts for professional services determined to
10 be necessary for adequate enforcement of this chapter;

11 (10) To contract with licensees or other persons or organizations
12 to provide services necessary for the monitoring and supervision of
13 licensees who are placed on probation, whose professional activities
14 are restricted, or who are for any authorized purpose subject to
15 monitoring by the disciplining authority;

16 (11) To adopt standards of professional conduct or practice in
17 consultation with the committee;

18 (12) To grant or deny license applications based upon the uniform
19 disciplinary act, and in the event of a finding of unprofessional
20 conduct by an applicant or license holder, to impose any sanction
21 against a license applicant or license holder provided by this chapter
22 and the uniform disciplinary act;

23 (13) To designate individuals authorized to sign subpoenas and
24 statements of charges;

25 (14) To establish panels consisting of three or more members of the
26 committee to perform any duty or authority within the department's
27 jurisdiction under this chapter;

28 (15) To review and audit the records of health facilities in which
29 a licensee's practice privilege or employment is terminated or
30 restricted. Each health facility shall produce and make accessible to
31 the disciplining authority the appropriate records and otherwise
32 facilitate the review and audit. Information so gained shall not be
33 subject to discovery or introduction into evidence in any civil action
34 pursuant to RCW 70.41.200(3).

35 NEW SECTION. **Sec. 8.** (1) The secretary shall issue a license to
36 any applicant who demonstrates to the satisfaction of the secretary
37 that the applicant meets the following education and experience
38 requirements for the applicant's practice area.

1 (a) Licensed social work classifications:

2 (i) Licensed advanced social worker:

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

6 (B) Successful completion of an approved examination;

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

8 The experience requirement consists of a minimum of three thousand two
9 hundred hours of experience by a licensed social worker who has been
10 licensed at least two years. Of those hours, fifty hours must include
11 direct supervision by a licensed advanced social worker or licensed
12 independent clinical social worker; the other forty hours may be with
13 an equally qualified licensed mental health practitioner. Forty hours
14 must be in one-to-one supervision and fifty hours may be in one-to-one
15 supervision or group supervision. Distance supervision is limited to
16 forty supervision hours. Eight hundred hours must be in direct client
17 contact; and

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

20 (ii) Licensed independent clinical social worker:

21 (A) Graduation from a master's or doctorate level social work
22 educational program accredited by the council on social work education
23 and approved by the secretary based upon nationally recognized
24 standards;

25 (B) Successful completion of an approved examination;

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

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

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

1 (b) Licensed mental health counselor:

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

6 (ii) Successful completion of an approved examination;

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

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

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

18 (c) Licensed marriage and family therapist:

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

24 (ii) Successful passage of an approved examination;

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

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

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

36 (B) At least two hundred hours of qualified supervision with a
37 supervisor. At least one hundred of the two hundred hours must be one-
38 on-one supervision, and the remaining hours may be in one-on-one or
39 group supervision.

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

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

8 (2) The department 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.** A person licensed under this chapter must
14 provide clients at the commencement of any program of treatment with
15 accurate disclosure information concerning the practice, in accordance
16 with rules adopted by the department, including the right of clients to
17 refuse treatment, the responsibility of clients to choose the provider
18 and treatment modality which best suits their needs, and the extent of
19 confidentiality provided by this chapter. The disclosure information
20 must also include the license holder's professional education and
21 training, the therapeutic orientation of the practice, the proposed
22 course of treatment where known, financial requirements, and such other
23 information as required by rule. The disclosure must be acknowledged
24 in writing by the client and license holder.

25 NEW SECTION. **Sec. 10.** (1) The date and location of examinations
26 shall be established by the secretary. Applicants who have been found
27 by the secretary to meet the other requirements for licensure shall be
28 scheduled for the next examination following the filing of the
29 application. The secretary shall establish by rule the examination
30 application deadline.

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

36 (3) The examination papers, all grading of the papers, and the
37 grading of any practical work shall be preserved for a period of not

1 less than one year after the secretary has made and published the
2 decisions. All examinations shall be conducted under fair and wholly
3 impartial methods.

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

7 NEW SECTION. **Sec. 11.** Applications for licensing shall be
8 submitted on forms provided by the secretary. The secretary may
9 require any information and documentation which reasonably relates to
10 the need to determine whether the applicant meets the criteria for
11 licensing provided for in this chapter and chapter 18.130 RCW. Each
12 applicant shall pay a fee determined by the secretary under RCW
13 43.70.250. The fee shall accompany the application.

14 NEW SECTION. **Sec. 12.** Any person certified for more than one year
15 under chapter 18.19 RCW and has met the applicable experience and
16 education requirements is eligible for a license as an advanced social
17 worker, an independent clinical social worker, a marriage and family
18 therapist, or a mental health counselor under this chapter without
19 taking the examination. Any person who is a certified social worker
20 and has been licensed for less than a year may become licensed if the
21 additional supervision and experience requirements are met.

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

27 NEW SECTION. **Sec. 14.** The secretary shall establish by rule the
28 procedural requirements and fees for renewal of a license. Failure to
29 renew shall invalidate the license and all privileges granted by the
30 license. If a license has lapsed for a period longer than three years,
31 the person shall demonstrate competence to the satisfaction of the
32 secretary by taking continuing education courses, or meeting other
33 standards determined by the secretary.

1 NEW SECTION. **Sec. 15.** This chapter shall not be construed as
2 permitting the administration or prescription of drugs or in any way
3 infringing upon the practice of medicine and surgery as defined in
4 chapter 18.71 or 18.57 RCW, or in any way infringing upon the practice
5 of psychology as defined in chapter 18.83 RCW, or restricting the scope
6 of the practice of counseling for those registered under chapter 18.19
7 RCW, or restricting the scope of practice of persons licensed under
8 this chapter.

9 **Sec. 16.** RCW 18.19.010 and 1987 c 512 s 1 are each amended to read
10 as follows:

11 The qualifications and practices of counselors in this state are
12 virtually unknown to potential clients. Beyond the regulated practices
13 of psychiatry and psychology, there are a considerable variety of
14 disciplines, theories, and techniques employed by other counselors
15 under a number of differing titles. The legislature recognizes the
16 right of all counselors to practice their skills freely, consistent
17 with the requirements of the public health and safety, as well as the
18 right of individuals to choose which counselors best suit their needs
19 and purposes. This chapter shall not be construed to require or
20 prohibit that individual or group policies or contracts of an insurance
21 carrier, health care service contractor, or health maintenance
22 organization provide benefits or coverage for services and supplies
23 provided by a person registered (~~(or certified)~~) under this chapter.

24 **Sec. 17.** RCW 18.19.020 and 1991 c 3 s 19 are each amended to read
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in
27 this section apply throughout this chapter.

28 (1) (~~("Certified marriage and family therapist" means a person
29 certified to practice marriage and family therapy pursuant to RCW
30 18.19.130.~~

31 ~~(2) "Certified mental health counselor" means a person certified to
32 practice mental health counseling pursuant to RCW 18.19.120.~~

33 ~~(3) "Certified social worker" means a person certified to practice
34 social work pursuant to RCW 18.19.110.~~

35 ~~(4))~~ "Client" means an individual who receives or participates in
36 counseling or group counseling.

1 ~~((+5))~~ (2) "Counseling" means employing any therapeutic
2 techniques, including but not limited to social work, mental health
3 counseling, marriage and family therapy, and hypnotherapy, for a fee
4 that offer, assist or attempt to assist an individual or individuals in
5 the amelioration or adjustment of mental, emotional, or behavioral
6 problems, and includes therapeutic techniques to achieve sensitivity
7 and awareness of self and others and the development of human
8 potential. For the purposes of this chapter, nothing may be construed
9 to imply that the practice of hypnotherapy is necessarily limited to
10 counseling.

11 ~~((+6))~~ (3) "Counselor" means an individual, practitioner,
12 therapist, or analyst who engages in the practice of counseling to the
13 public for a fee, including for the purposes of this chapter,
14 hypnotherapists.

15 ~~((+7))~~ (4) "Department" means the department of health.

16 ~~((+8))~~ (5) "Secretary" means the secretary of the department or
17 the secretary's designee.

18 **Sec. 18.** RCW 18.19.030 and 1991 c 3 s 20 are each amended to read
19 as follows:

20 No person may, for a fee or as a part of his or her position as an
21 employee of a state agency, practice counseling without being
22 registered to practice by the department under this chapter unless
23 exempt under RCW 18.19.040. ~~((No person may represent himself or
24 herself as a certified social worker, certified mental health
25 counselor, or certified marriage and family therapist without being so
26 certified by the department under this chapter.))~~

27 **Sec. 19.** RCW 18.19.040 and 1987 c 512 s 4 are each amended to read
28 as follows:

29 Nothing in this chapter may be construed to prohibit or restrict:

30 (1) The practice of a profession by a person who is either
31 registered, certified, licensed, or similarly regulated under the laws
32 of this state and who is performing services within the person's
33 authorized scope of practice, including any attorney admitted to
34 practice law in this state when providing counseling incidental to and
35 in the course of providing legal counsel;

36 (2) The practice of counseling by an employee or trainee of any
37 federal agency, or the practice of counseling by a student of a college

1 or university, if the employee, trainee, or student is practicing
2 solely under the supervision of and accountable to the agency, college,
3 or university, through which he or she performs such functions as part
4 of his or her position for no additional fee other than ordinary
5 compensation;

6 (3) The practice of counseling by a person without a mandatory
7 charge;

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

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

15 (6) The practice of counseling by a person under the auspices of a
16 religious denomination, church, or organization, or the practice of
17 religion itself;

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

22 **Sec. 20.** RCW 18.19.050 and 1991 c 3 s 21 are each amended to read
23 as follows:

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

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

28 (b) To set all ((certification₇)) registration((₇)) and renewal
29 fees in accordance with RCW 43.70.250 and to collect and deposit all
30 such fees in the health professions account established under RCW
31 43.70.320;

32 (c) To establish forms and procedures necessary to administer this
33 chapter;

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

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

1 ~~(f) ((To set educational, ethical, and professional standards of~~
2 ~~practice for certification;~~

3 ~~(g) To prepare and administer or cause to be prepared and~~
4 ~~administered an examination for all qualified applicants for~~
5 ~~certification;~~

6 ~~(h) To establish criteria for evaluating the ability and~~
7 ~~qualifications of persons applying for a certificate, including~~
8 ~~standards for passing the examination and standards of qualification~~
9 ~~for certification to practice;~~

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

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

16 ~~(k) To set competence requirements for maintaining certification;~~
17 ~~and~~

18 ~~(l)) To develop a dictionary of recognized professions and~~
19 ~~occupations providing counseling services to the public included under~~
20 ~~this chapter.~~

21 (2) The uniform disciplinary act, chapter 18.130 RCW, governs the
22 issuance and denial of ~~((certifications and))~~ registrations and the
23 discipline of ~~((certified practitioners and))~~ registrants under this
24 chapter. The secretary shall be the disciplining authority under this
25 chapter. The absence of educational or training requirements for
26 counselors registered under this chapter or the counselor's use of
27 nontraditional nonabusive therapeutic techniques shall not, in and of
28 itself, give the secretary authority to unilaterally determine the
29 training and competence or to define or restrict the scope of practice
30 of such individuals.

31 (3) The department shall publish and disseminate information in
32 order to educate the public about the responsibilities of counselors
33 and the rights and responsibilities of clients established under this
34 chapter. ~~((Solely for the purposes of administering this education~~
35 ~~requirement, the secretary shall assess an additional fee for each~~
36 ~~registration and certification application and renewal, equal to five~~
37 ~~percent of the fee. The revenue collected from the assessment fee may~~
38 ~~be appropriated by the legislature for the department's use in~~

1 educating consumers pursuant to this section. The authority to charge
2 the assessment fee shall terminate on June 30, 1994.)

3 **Sec. 21.** RCW 18.19.060 and 1987 c 512 s 6 are each amended to read
4 as follows:

5 Persons registered (~~or certified~~) under this chapter shall
6 provide clients at the commencement of any program of treatment with
7 accurate disclosure information concerning their practice, in
8 accordance with guidelines developed by the department, that will
9 inform clients of the purposes of and resources available under this
10 chapter, including the right of clients to refuse treatment, the
11 responsibility of clients for choosing the provider and treatment
12 modality which best suits their needs, and the extent of
13 confidentiality provided by this chapter. The disclosure information
14 provided by the counselor, the receipt of which shall be acknowledged
15 in writing by the counselor and client, shall include any relevant
16 education and training, the therapeutic orientation of the practice,
17 the proposed course of treatment where known, any financial
18 requirements, and such other information as the department may require
19 by rule. The disclosure information shall also include a statement
20 that registration of an individual under this chapter does not include
21 a recognition of any practice standards, nor necessarily imply the
22 effectiveness of any treatment.

23 **Sec. 22.** RCW 18.19.080 and 1991 c 3 s 23 are each amended to read
24 as follows:

25 The secretary shall keep an official record of all proceedings, a
26 part of which record shall consist of a register of all applicants for
27 registration (~~or certification~~) under this chapter, with the result
28 of each application.

29 **Sec. 23.** RCW 18.19.180 and 1991 c 3 s 33 are each amended to read
30 as follows:

31 An individual registered (~~or certified~~) under this chapter shall
32 not disclose the written acknowledgment of the disclosure statement
33 pursuant to RCW 18.19.060 nor any information acquired from persons
34 consulting the individual in a professional capacity when that
35 information was necessary to enable the individual to render
36 professional services to those persons except:

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

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

8 (3) If the person is a minor, and the information acquired by the
9 person registered (~~(or certified)~~) under this chapter indicates that
10 the minor was the victim or subject of a crime, the person registered
11 (~~(or certified)~~) may testify fully upon any examination, trial, or
12 other proceeding in which the commission of the crime is the subject of
13 the inquiry;

14 (4) If the person waives the privilege by bringing charges against
15 the person registered (~~(or certified)~~) under this chapter;

16 (5) In response to a subpoena from a court of law or the secretary.
17 The secretary may subpoena only records related to a complaint or
18 report under chapter 18.130 RCW; or

19 (6) As required under chapter 26.44 RCW.

20 **Sec. 24.** RCW 18.19.190 and 1987 c 512 s 18 are each amended to
21 read as follows:

22 This chapter shall not be construed as permitting the
23 administration or prescription of drugs or in any way infringing upon
24 the practice of medicine and surgery as defined in chapter 18.71 RCW,
25 or in any way infringing upon the practice of psychology as defined in
26 chapter 18.83 RCW, or restricting the scope of the practice of
27 counseling for those registered (~~(or certified)~~) under this chapter.

28 **Sec. 25.** RCW 18.120.020 and 2000 c 93 s 15 are each amended to
29 read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

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

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

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

12 (4) "Health professions" means and includes the following health
13 and health-related licensed or regulated professions and occupations:
14 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
15 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
16 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
17 dispensing opticians under chapter 18.34 RCW; hearing instruments under
18 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
19 funeral directing under chapter 18.39 RCW; midwifery under chapter
20 18.50 RCW; nursing home administration under chapter 18.52 RCW;
21 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter
22 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and
23 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
24 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter
25 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses
26 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;
27 registered nurses under chapter 18.79 RCW; occupational therapists
28 licensed under chapter 18.59 RCW; respiratory care practitioners
29 licensed under chapter 18.89 RCW; veterinarians and veterinary
30 technicians under chapter 18.92 RCW; health care assistants under
31 chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW;
32 acupuncturists licensed under chapter 18.06 RCW; persons registered
33 (~~or certified~~) under chapter 18.19 RCW; persons licensed as mental
34 health counselors, marriage and family therapists, and social workers
35 under chapter 18.-- RCW (sections 1 through 15 of this act); dietitians
36 and nutritionists certified by chapter 18.138 RCW; radiologic
37 technicians under chapter 18.84 RCW; and nursing assistants registered
38 or certified under chapter 18.88A RCW.

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

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

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

14 (8) "Professional license" means an individual, nontransferable
15 authorization to carry on a health activity based on qualifications
16 which include: (a) Graduation from an accredited or approved program,
17 and (b) acceptable performance on a qualifying examination or series of
18 examinations.

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

22 (10) "Public member" means an individual who is not, and never was,
23 a member of the health profession being regulated or the spouse of a
24 member, or an individual who does not have and never has had a material
25 financial interest in either the rendering of the health professional
26 service being regulated or an activity directly related to the
27 profession being regulated.

28 (11) "Registration" means the formal notification which, prior to
29 rendering services, a practitioner shall submit to a state agency
30 setting forth the name and address of the practitioner; the location,
31 nature and operation of the health activity to be practiced; and, if
32 required by the regulatory entity, a description of the service to be
33 provided.

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

38 (13) "State agency" includes every state office, department, board,
39 commission, regulatory entity, and agency of the state, and, where

1 provided by law, programs and activities involving less than the full
2 responsibility of a state agency.

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

5 (1) This chapter applies only to the secretary and the boards and
6 commissions having jurisdiction in relation to the professions licensed
7 under the chapters specified in this section. This chapter does not
8 apply to any business or profession not licensed under the chapters
9 specified in this section.

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

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

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

14 (iii) Midwives licensed under chapter 18.50 RCW;

15 (iv) Ocularists licensed under chapter 18.55 RCW;

16 (v) Massage operators and businesses licensed under chapter 18.108
17 RCW;

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

19 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

22 (ix) Respiratory care practitioners licensed under chapter 18.89
23 RCW;

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

25 (xi) Persons licensed as mental health counselors, marriage and
26 family therapists, and social workers under chapter 18.-- RCW (sections
27 1 through 15 of this act);

28 (xii) Persons registered as nursing pool operators under chapter
29 18.52C RCW;

30 (~~(xii)~~) (xiii) Nursing assistants registered or certified under
31 chapter 18.88A RCW;

32 (~~(xiii)~~) (xiv) Health care assistants certified under chapter
33 18.135 RCW;

34 (~~(xiv)~~) (xv) Dietitians and nutritionists certified under chapter
35 18.138 RCW;

36 (~~(xv)~~) (xvi) Chemical dependency professionals certified under
37 chapter 18.205 RCW;

1 (~~(xvi)~~) (xvii) Sex offender treatment providers certified under
2 chapter 18.155 RCW;
3 (~~(xvii)~~) (xviii) Persons licensed and certified under chapter
4 18.73 RCW or RCW 18.71.205;
5 (~~(xviii)~~) (xix) Persons registered as adult family home providers
6 and resident managers under RCW 18.48.020;
7 (~~(xix)~~) (xx) Denturists licensed under chapter 18.30 RCW;
8 (~~(xx)~~) (xxi) Orthotists and prosthetists licensed under chapter
9 18.200 RCW; and
10 (~~(xxi)~~) (xxii) Surgical technologists registered under chapter
11 18.215 RCW.
12 (b) The boards and commissions having authority under this chapter
13 are as follows:
14 (i) The podiatric medical board as established in chapter 18.22
15 RCW;
16 (ii) The chiropractic quality assurance commission as established
17 in chapter 18.25 RCW;
18 (iii) The dental quality assurance commission as established in
19 chapter 18.32 RCW;
20 (iv) The board of hearing and speech as established in chapter
21 18.35 RCW;
22 (v) The board of examiners for nursing home administrators as
23 established in chapter 18.52 RCW;
24 (vi) The optometry board as established in chapter 18.54 RCW
25 governing licenses issued under chapter 18.53 RCW;
26 (vii) The board of osteopathic medicine and surgery as established
27 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
28 18.57A RCW;
29 (viii) The board of pharmacy as established in chapter 18.64 RCW
30 governing licenses issued under chapters 18.64 and 18.64A RCW;
31 (ix) The medical quality assurance commission as established in
32 chapter 18.71 RCW governing licenses and registrations issued under
33 chapters 18.71 and 18.71A RCW;
34 (x) The board of physical therapy as established in chapter 18.74
35 RCW;
36 (xi) The board of occupational therapy practice as established in
37 chapter 18.59 RCW;
38 (xii) The nursing care quality assurance commission as established
39 in chapter 18.79 RCW governing licenses issued under that chapter;

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

3 (xiv) The veterinary board of governors as established in chapter
4 18.92 RCW.

5 (3) In addition to the authority to discipline license holders, the
6 disciplining authority has the authority to grant or deny licenses
7 based on the conditions and criteria established in this chapter and
8 the chapters specified in subsection (2) of this section. This chapter
9 also governs any investigation, hearing, or proceeding relating to
10 denial of licensure or issuance of a license conditioned on the
11 applicant's compliance with an order entered pursuant to RCW 18.130.160
12 by the disciplining authority.

13 (4) All disciplining authorities shall adopt procedures to ensure
14 substantially consistent application of this chapter, the Uniform
15 Disciplinary Act, among the disciplining authorities listed in
16 subsection (2) of this section.

17 **Sec. 27.** RCW 5.60.060 and 1998 c 72 s 1 are each amended to read
18 as follows:

19 (1) A husband shall not be examined for or against his wife,
20 without the consent of the wife, nor a wife for or against her husband
21 without the consent of the husband; nor can either during marriage or
22 afterward, be without the consent of the other, examined as to any
23 communication made by one to the other during marriage. But this
24 exception shall not apply to a civil action or proceeding by one
25 against the other, nor to a criminal action or proceeding for a crime
26 committed by one against the other, nor to a criminal action or
27 proceeding against a spouse if the marriage occurred subsequent to the
28 filing of formal charges against the defendant, nor to a criminal
29 action or proceeding for a crime committed by said husband or wife
30 against any child of whom said husband or wife is the parent or
31 guardian, nor to a proceeding under chapter 70.96A or 71.05 RCW:
32 PROVIDED, That the spouse of a person sought to be detained under
33 chapter 70.96A or 71.05 RCW may not be compelled to testify and shall
34 be so informed by the court prior to being called as a witness.

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

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

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

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

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

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

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

28 (6)(a) A peer support group counselor shall not, without consent of
29 the law enforcement officer making the communication, be compelled to
30 testify about any communication made to the counselor by the officer
31 while receiving counseling. The counselor must be designated as such
32 by the sheriff, police chief, or chief of the Washington state patrol,
33 prior to the incident that results in counseling. The privilege only
34 applies when the communication was made to the counselor while acting
35 in his or her capacity as a peer support group counselor. The
36 privilege does not apply if the counselor was an initial responding
37 officer, a witness, or a party to the incident which prompted the
38 delivery of peer support group counseling services to the law
39 enforcement officer.

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

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

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

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

16 (a) For purposes of this section, "sexual assault advocate" means
17 the employee or volunteer from a rape crisis center, victim assistance
18 unit, program, or association, that provides information, medical or
19 legal advocacy, counseling, or support to victims of sexual assault,
20 who is designated by the victim to accompany the victim to the hospital
21 or other health care facility and to proceedings concerning the alleged
22 assault, including police and prosecution interviews and court
23 proceedings.

24 (b) A sexual assault advocate may disclose a confidential
25 communication without the consent of the victim if failure to disclose
26 is likely to result in a clear, imminent risk of serious physical
27 injury or death of the victim or another person. Any sexual assault
28 advocate participating in good faith in the disclosing of records and
29 communications under this section shall have immunity from any
30 liability, civil, criminal, or otherwise, that might result from the
31 action. In any proceeding, civil or criminal, arising out of a
32 disclosure under this section, the good faith of the sexual assault
33 advocate who disclosed the confidential communication shall be
34 presumed.

35 (8) A licensed mental health counselor, marriage and family
36 therapist, or social worker shall not be examined as to any
37 communications made by his or her client to the licensed mental health
38 counselor, marriage and family therapist, or social worker in the
39 course of the professional relationship without the consent of his or

1 her client. This privilege is limited by the mental health counselor,
2 marriage and family therapist, or social worker's duty to mandatorily
3 report abuse and neglect under chapter 26.44 RCW or abuse, neglect, or
4 financial exploitation of a vulnerable adult under chapter 74.34 RCW.
5 This privilege is limited by the mental health counselor, marriage and
6 family therapist, or social worker's duty to warn of and protect from
7 a client's threatened violent behavior if the client communicated a
8 serious threat of physical violence against a reasonably identifiable
9 victim or victims. This privilege is subject to the limitations of RCW
10 70.96A.140 and 71.05.250. Communications remain confidential and
11 privileged even under circumstances where the client's parent, legal
12 custodian, or legal guardian, in the case of a minor, is present at the
13 time of the communication.

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

16 As used in this chapter:

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

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

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

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

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

34 (4) "Mental incapacity" is that condition existing at the time of
35 the offense which prevents a person from understanding the nature or
36 consequences of the act of sexual intercourse whether that condition is
37 produced by illness, defect, the influence of a substance or from some
38 other cause.

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

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

8 (7) "Consent" means that at the time of the act of sexual
9 intercourse or sexual contact there are actual words or conduct
10 indicating freely given agreement to have sexual intercourse or sexual
11 contact.

12 (8) "Significant relationship" means a situation in which the
13 perpetrator is:

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

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

19 (c) A person who provides welfare, health or residential
20 assistance, personal care, or organized recreational activities to
21 frail elders or vulnerable adults, including a provider, employee,
22 temporary employee, volunteer, or independent contractor who supplies
23 services to long-term care facilities licensed or required to be
24 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
25 health, hospice, or home care agencies licensed or required to be
26 licensed under chapter 70.127 RCW, but not including a consensual
27 sexual partner.

28 (9) "Abuse of a supervisory position" means a direct or indirect
29 threat or promise to use authority to the detriment or benefit of a
30 minor.

31 (10) "Developmentally disabled," for purposes of RCW
32 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
33 developmental disability as defined in RCW 71A.10.020.

34 (11) "Person with supervisory authority," for purposes of RCW
35 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
36 proprietor or employee of any public or private care or treatment
37 facility who directly supervises developmentally disabled, mentally
38 disordered, or chemically dependent persons at the facility.

1 (12) "Mentally disordered person" for the purposes of RCW
2 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
3 disorder" as defined in RCW 71.05.020.

4 (13) "Chemically dependent person" for purposes of RCW
5 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
6 dependent" as defined in RCW 70.96A.020(4).

7 (14) "Health care provider" for purposes of RCW 9A.44.050 and
8 9A.44.100 means a person who is, holds himself or herself out to be, or
9 provides services as if he or she were: (a) A member of a health care
10 profession under chapter 18.130 RCW; or (b) registered (~~or certified~~)
11 under chapter 18.19 RCW or licensed under chapter 18.-- RCW (sections
12 1 through 15 of this act), regardless of whether the health care
13 provider is licensed, certified, or registered by the state.

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

18 (16) "Frail elder or vulnerable adult" means a person sixty years
19 of age or older who has the functional, mental, or physical inability
20 to care for himself or herself. "Frail elder or vulnerable adult" also
21 includes a person found incapacitated under chapter 11.88 RCW, a person
22 over eighteen years of age who has a developmental disability under
23 chapter 71A.10 RCW, a person admitted to a long-term care facility that
24 is licensed or required to be licensed under chapter 18.20, 18.51,
25 72.36, or 70.128 RCW, and a person receiving services from a home
26 health, hospice, or home care agency licensed or required to be
27 licensed under chapter 70.127 RCW.

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

30 (1) An individual or group of individuals duly licensed or
31 otherwise legally authorized to render the same professional services
32 within this state may organize and become a shareholder or shareholders
33 of a professional corporation for pecuniary profit under the provisions
34 of Title 23B RCW for the purpose of rendering professional service.
35 One or more of the legally authorized individuals shall be the
36 incorporators of the professional corporation.

37 (2) Notwithstanding any other provision of this chapter, registered
38 architects and registered engineers may own stock in and render their

1 individual professional services through one professional service
2 corporation.

3 (3) Licensed health care professionals, providing services to
4 enrolled participants either directly or through arrangements with a
5 health maintenance organization registered under chapter 48.46 RCW or
6 federally qualified health maintenance organization, may own stock in
7 and render their individual professional services through one
8 professional service corporation.

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

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

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

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

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

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

4 (a) Completion of an educational program approved by the secretary
5 or successful completion of alternate training that meets established
6 criteria;

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

9 (c) Successful completion of an experience requirement that
10 establishes fewer hours of experience for applicants with higher levels
11 of relevant education. In meeting any experience requirement
12 established under this subsection, the secretary may not require more
13 than one thousand five hundred hours of experience in chemical
14 dependency counseling for applicants who are licensed under chapter
15 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse
16 practitioners.

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

19 (3) Applicants are subject to the grounds for denial of a
20 certificate or issuance of a conditional certificate under chapter
21 18.130 RCW.

22 (4) Certified chemical dependency professionals shall not be
23 required to be registered under chapter 18.19 RCW or licensed under
24 chapter 18.-- RCW (sections 1 through 15 of this act).

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

27 (1) A person or group of persons licensed or otherwise legally
28 authorized to render professional services, as defined in RCW
29 18.100.030, within this state may organize and become a member or
30 members of a limited liability partnership under the provisions of this
31 chapter for the purposes of rendering professional service. Nothing in
32 this section prohibits a person duly licensed or otherwise legally
33 authorized to render professional services in any jurisdiction other
34 than this state from becoming a member of a limited liability
35 partnership organized for the purpose of rendering the same
36 professional services. Nothing in this section prohibits a limited
37 liability partnership from rendering professional services outside this
38 state through individuals who are not duly licensed or otherwise

1 legally authorized to render such professional services within this
2 state.

3 (2)(a) Notwithstanding any other provision of this chapter, health
4 care professionals who are licensed or certified pursuant to chapters
5 18.06, 18.19, 18.-- (sections 1 through 15 of this act), 18.22, 18.25,
6 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.64, 18.79, 18.83,
7 18.89, 18.108, and 18.138 RCW may join and render their individual
8 professional services through one limited liability partnership and are
9 to be considered, for the purpose of forming a limited liability
10 partnership, as rendering the "same specific professional services" or
11 "same professional services" or similar terms.

12 (b) Notwithstanding any other provision of this chapter, health
13 care professionals who are licensed pursuant to chapters 18.57 and
14 18.71 RCW may join and render their individual professional services
15 through one limited liability partnership and are to be considered, for
16 the purpose of forming a limited liability partnership, as rendering
17 the "same specific professional services" or "same professional
18 services" or similar terms.

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

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

28 (1) A person or group of persons licensed or otherwise legally
29 authorized to render professional services within this or any other
30 state may organize and become a member or members of a professional
31 limited liability company under the provisions of this chapter for the
32 purposes of rendering professional service. A "professional limited
33 liability company" is subject to all the provisions of chapter 18.100
34 RCW that apply to a professional corporation, and its managers,
35 members, agents, and employees shall be subject to all the provisions
36 of chapter 18.100 RCW that apply to the directors, officers,
37 shareholders, agents, or employees of a professional corporation,
38 except as provided otherwise in this section. Nothing in this section

1 prohibits a person duly licensed or otherwise legally authorized to
2 render professional services in any jurisdiction other than this state
3 from becoming a member of a professional limited liability company
4 organized for the purpose of rendering the same professional services.
5 Nothing in this section prohibits a professional limited liability
6 company from rendering professional services outside this state through
7 individuals who are not duly licensed or otherwise legally authorized
8 to render such professional services within this state. Persons
9 engaged in a profession and otherwise meeting the requirements of this
10 chapter may operate under this chapter as a professional limited
11 liability company so long as each member personally engaged in the
12 practice of the profession in this state is duly licensed or otherwise
13 legally authorized to practice the profession in this state and:

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

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

20 (2) If the company's members are required to be licensed to
21 practice such profession, and the company fails to maintain for itself
22 and for its members practicing in this state a policy of professional
23 liability insurance, bond, or other evidence of financial
24 responsibility of a kind designated by rule by the state insurance
25 commissioner and in the amount of at least one million dollars or a
26 greater amount as the state insurance commissioner may establish by
27 rule for a licensed profession or for any specialty within a
28 profession, taking into account the nature and size of the business,
29 then the company's members are personally liable to the extent that,
30 had the insurance, bond, or other evidence of responsibility been
31 maintained, it would have covered the liability in question.

32 (3) For purposes of applying the provisions of chapter 18.100 RCW
33 to a professional limited liability company, the terms "director" or
34 "officer" means manager, "shareholder" means member, "corporation"
35 means professional limited liability company, "articles of
36 incorporation" means certificate of formation, "shares" or "capital
37 stock" means a limited liability company interest, "incorporator" means
38 the person who executes the certificate of formation, and "bylaws"
39 means the limited liability company agreement.

1 (4) The name of a professional limited liability company must
2 contain either the words "Professional Limited Liability Company," or
3 the words "Professional Limited Liability" and the abbreviation "Co.,"
4 or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a
5 professional limited liability company organized to render dental
6 services shall contain the full names or surnames of all members and no
7 other word than "chartered" or the words "professional services" or the
8 abbreviation "P.L.L.C." or "PLLC."

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

13 (a) A professional corporation, if its shareholders, directors, and
14 its officers other than the secretary and the treasurer, are licensed
15 or otherwise legally authorized to render the same specific
16 professional services as the professional limited liability company;
17 and

18 (b) Another professional limited liability company, if the managers
19 and members of both professional limited liability companies are
20 licensed or otherwise legally authorized to render the same specific
21 professional services.

22 (6)(a) Notwithstanding any other provision of this chapter, health
23 care professionals who are licensed or certified pursuant to chapters
24 18.06, 18.19, 18.-- (sections 1 through 15 of this act), 18.22, 18.25,
25 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A, 18.64,
26 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may own
27 membership interests in and render their individual professional
28 services through one limited liability company and are to be
29 considered, for the purpose of forming a limited liability company, as
30 rendering the "same specific professional services" or "same
31 professional services" or similar terms.

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

38 (c) Formation of a limited liability company under this subsection
39 does not restrict the application of the uniform disciplinary act under

1 chapter 18.130 RCW, or any applicable health care professional statutes
2 under Title 18 RCW, including but not limited to restrictions on
3 persons practicing a health profession without being appropriately
4 credentialed and persons practicing beyond the scope of their
5 credential.

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

8 (1) For purposes of this section:

9 (a) "Health carrier" includes disability insurers regulated under
10 chapter 48.20 or 48.21 RCW, health care services contractors regulated
11 under chapter 48.44 RCW, plans operating under the health care
12 authority under chapter 41.05 RCW, the basic health plan operating
13 under chapter 70.47 RCW, the state health insurance pool operating
14 under chapter 48.41 RCW, insuring entities regulated under this
15 chapter, and health maintenance organizations regulated under chapter
16 48.46 RCW.

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

20 (c) Consistent with their lawful scopes of practice, "mental health
21 care practitioners" includes only the following: Any generally
22 recognized medical specialty of practitioners licensed under chapter
23 18.57 or 18.71 RCW who provide mental health services, advanced
24 practice psychiatric nurses as authorized by the nursing care quality
25 assurance commission under chapter 18.79 RCW, psychologists licensed
26 under chapter 18.83 RCW, ~~((social workers, marriage and family
27 therapists, and mental health))~~ counselors ~~((certified))~~ under chapter
28 18.19 RCW, and mental health counselors, marriage and family
29 therapists, and social workers licensed under chapter 18.-- RCW
30 (sections 1 through 15 of this act).

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

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

1 (a) On the exhaustion of the enrollee's mental health care
2 coverage;

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

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

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

6 (3) If a mental health care practitioner provides services to an
7 enrollee during an appeal or adverse certification process, the
8 practitioner must provide to the enrollee written notification that the
9 enrollee is responsible for payment of these services, unless the
10 health carrier elects to pay for services provided.

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

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

16 Mental health counselors, marriage and family therapists, and
17 social workers licensed under chapter 18.-- RCW (sections 1 through 15
18 of this act) are subject to this chapter.

19 NEW SECTION. **Sec. 35.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 36.** Sections 1 through 15 of this act
24 constitute a new chapter in Title 18 RCW.

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

27 (1) RCW 18.19.070 (Council established--Membership--
28 Qualifications--Removal--Vacancy--Duties and powers--Compensation) and
29 1996 c 191 s 4, 1994 sp.s. c 9 s 501, 1991 c 3 s 22, & 1987 c 512 s 7;

30 (2) RCW 18.19.110 (Certification of social workers) and 1991 c 3 s
31 26 & 1987 c 512 s 12;

32 (3) RCW 18.19.120 (Certification of mental health counselors--
33 Practice defined--Continuing education) and 1995 c 183 s 1, 1991 c 3 s
34 27, & 1987 c 512 s 13;

1 (4) RCW 18.19.130 (Certification of marriage and family
2 therapists--Practice defined) and 1993 c 259 s 1, 1991 c 3 s 28, & 1987
3 c 512 s 14;
4 (5) RCW 18.19.140 (Applications for certification) and 1991 c 3 s
5 29 & 1987 c 512 s 17;
6 (6) RCW 18.19.150 (Examination of applicants for certification) and
7 1991 c 3 s 30 & 1987 c 512 s 16;
8 (7) RCW 18.19.160 (Certification of persons credentialed out-of-
9 state--Temporary retirement of certified persons) and 1991 c 3 s 31 &
10 1987 c 512 s 19; and
11 (8) RCW 18.19.170 (Renewal of certificates--Continuing education)
12 and 1998 c 32 s 1, 1996 c 191 s 6, 1991 c 3 s 32, & 1987 c 512 s 15.

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