

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1574

60th Legislature
2007 Regular Session

Passed by the House February 28, 2007
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 11, 2007
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1574** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1574

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

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

READ FIRST TIME 02/20/07.

1 AN ACT Relating to the uniform regulation of business and
2 professions; amending RCW 18.140.160, 18.185.110, 18.185.120,
3 19.16.410, 18.220.040, 18.220.130, 18.220.050, 18.165.170, 18.170.180,
4 18.235.005, 18.235.010, 18.235.020, 18.235.040, 18.235.050, 18.235.080,
5 18.235.090, 18.235.100, 18.235.110, 18.235.130, 18.235.150, and
6 18.235.210; and repealing RCW 18.140.175, 18.85.343, 18.220.140,
7 18.220.150, 18.220.170, and 18.220.180.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 ~~(1)) to order restitution to the person harmed by the licensee((+~~
6 ~~or~~

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

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

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

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

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

24 ~~(1) ((To adopt, amend, and rescind rules approved by the board as~~
25 ~~deemed necessary to carry out this chapter;~~

26 ~~(2))~~ To adopt fees as provided in RCW 43.24.086; and

27 ~~((+3))~~ (2) To administer licensing examinations approved by the
28 board ~~((and to adopt or recognize examinations prepared by other~~
29 ~~organizations as approved by the board;~~

30 ~~(4) To adopt standards of professional conduct and practice as~~
31 ~~approved by the board; and~~

32 ~~(5) To enter into an assurance of discontinuance in lieu of issuing~~
33 ~~a statement of charges or conducting a hearing. The assurance shall~~
34 ~~consist of a statement of the law in question and an agreement to not~~
35 ~~violate the stated provision. Violation of an assurance under this~~
36 ~~subsection is grounds for disciplinary action)).~~

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

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

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

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

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

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

16 **Sec. 7.** RCW 18.220.050 and 2002 c 86 s 262 are each amended to
17 read as follows:

18 The board has the following authority in administering this
19 chapter:

20 (1) To ~~((establish))~~ adopt, amend, and rescind rules~~((, including
21 board organization and assignment of terms, and meeting frequency and
22 timing, for adoption by the director))~~ as deemed necessary to carry out
23 this chapter;

24 (2) To establish the minimum qualifications for applicants for
25 licensure as provided by this chapter;

26 (3) To approve the method of administration for examinations
27 required by this chapter or by rule ~~((as established by the director)).~~
28 To ~~((approve the adoption))~~ adopt or ~~((recognition of))~~ recognize
29 examinations prepared by other organizations ~~((for adoption by the
30 director)).~~ To set the time and place of examinations with the
31 approval of the director;

32 (4) To ~~((establish and review))~~ adopt standards of professional
33 conduct and practice ~~((for adoption by the director)).~~ Rules of
34 professional conduct will be consistent with those outlined for
35 engineers and land surveyors; and

36 (5) To designate specialties of geology to be licensed under this
37 chapter.

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

3 The director or the director's designee has the following authority
4 in administering this chapter:

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

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

9 (3) To adopt standards of professional conduct or practice((+

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

17 ~~(5) To employ such administrative and clerical staff as necessary~~
18 ~~for the enforcement of this chapter)).~~

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

21 The director or the director's designee has the following authority
22 in administering this chapter:

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

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

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

33 ~~(4))~~ To employ such administrative and clerical staff as necessary
34 for the enforcement of this chapter.

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

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

9 It is also the intent of the legislature that all businesses and
10 professions newly credentialed by the state and regulated by the
11 (~~business and professions division of the~~) department of licensing
12 come under this chapter.

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

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

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

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

19 (3) "Director" means the director of the department or director's
20 designee.

21 (4) "Disciplinary action" means sanctions identified in RCW
22 18.235.110.

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

28 (6) "License," "licensing," and "licensure" are deemed equivalent
29 to the terms "license," "licensing," "licensure," "certificate,"
30 "certification," and "registration" as those terms are defined in RCW
31 18.118.020. Each of these terms, and the term "appointment" under
32 chapter 42.44 RCW, are interchangeable under the provisions of this
33 chapter.

34 (7) "Unlicensed practice" means:

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

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

6 **Sec. 12.** RCW 18.235.020 and 2006 c 219 s 13 are each amended to
7 read as follows:

8 (1) This chapter applies only to the director and the boards and
9 commissions having jurisdiction in relation to the businesses and
10 professions licensed under the chapters specified in this section.
11 This chapter does not apply to any business or profession not licensed
12 under the chapters specified in this section.

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

15 (i) Auctioneers under chapter 18.11 RCW;

16 (ii) Bail bond agents and bail bond recovery agents under chapter
17 18.185 RCW;

18 (iii) Camping resorts' operators and salespersons under chapter
19 19.105 RCW;

20 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

21 (v) Cosmetologists, barbers, manicurists, and estheticians under
22 chapter 18.16 RCW;

23 (vi) Court reporters under chapter 18.145 RCW;

24 (vii) Driver training schools and instructors under chapter 46.82
25 RCW;

26 (viii) Employment agencies under chapter 19.31 RCW;

27 (ix) For hire vehicle operators under chapter 46.72 RCW;

28 (x) Limousines under chapter 46.72A RCW;

29 (xi) Notaries public under chapter 42.44 RCW;

30 (xii) Private investigators under chapter 18.165 RCW;

31 (xiii) Professional boxing, martial arts, and wrestling under
32 chapter 67.08 RCW;

33 (xiv) Real estate appraisers under chapter 18.140 RCW;

34 (xv) Real estate brokers and salespersons under chapters 18.85 and
35 18.86 RCW;

36 (xvi) Security guards under chapter 18.170 RCW;

37 (xvii) Sellers of travel under chapter 19.138 RCW;

1 (xviii) Timeshares and timeshare salespersons under chapter 64.36
2 RCW; and
3 (xix) Whitewater river outfitters under chapter 79A.60 RCW.
4 (b) The boards and commissions having authority under this chapter
5 are as follows:
6 (i) The state board of registration for architects established in
7 chapter 18.08 RCW;
8 (ii) The cemetery board established in chapter 68.05 RCW;
9 (iii) The Washington state collection agency board established in
10 chapter 19.16 RCW;
11 (iv) The state board of registration for professional engineers and
12 land surveyors established in chapter 18.43 RCW governing licenses
13 issued under chapters 18.43 and 18.210 RCW;
14 (v) The state board of funeral directors and embalmers established
15 in chapter 18.39 RCW;
16 (vi) The state board of registration for landscape architects
17 established in chapter 18.96 RCW; and
18 (vii) The state geologist licensing board established in chapter
19 18.220 RCW.
20 (3) In addition to the authority to discipline license holders, the
21 disciplinary authority may grant or deny licenses based on the
22 conditions and criteria established in this chapter and the chapters
23 specified in subsection (2) of this section. This chapter also governs
24 any investigation, hearing, or proceeding relating to denial of
25 licensure or issuance of a license conditioned on the applicant's
26 compliance with an order entered under RCW 18.235.110 by the
27 disciplinary authority.

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

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

32 (1) To employ investigative, administrative, and clerical staff as
33 necessary for the enforcement of this chapter, except as provided
34 otherwise by statute;

35 (2) Upon request of a board or commission, to appoint not more than
36 three pro tem members as provided in this subsection. Individuals
37 appointed as pro tem members of a board or commission must meet the

1 same minimum qualifications as regular members of the board or
2 commission. While serving as a pro tem board or commission member, a
3 person so appointed has all the powers, duties, and immunities, and is
4 entitled to the entitlements, including travel expenses in accordance
5 with RCW 43.03.050 and 43.03.060, of a regular member of the board or
6 commission; and

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

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

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

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

1 charge, charges, or intent to deny. The disciplinary authority may
2 hold a hearing sooner than thirty days only if the disciplinary
3 authority has issued a summary suspension or summary restriction.

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

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

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

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

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

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

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

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

- 1 (a) Revocation of the license for an interval of time;
- 2 (b) Suspension of the license for a fixed or indefinite term;
- 3 (c) Restriction or limitation of the practice;
- 4 (d) Satisfactory completion of a specific program of remedial
5 education or treatment;
- 6 (e) Monitoring of the practice in a manner directed by the
7 disciplinary authority;
- 8 (f) Censure or reprimand;
- 9 (g) Compliance with conditions of probation for a designated period
10 of time;
- 11 (h) Payment of a fine for each violation found by the disciplinary
12 authority, not to exceed five thousand dollars per violation. The
13 disciplinary authority must consider aggravating or mitigating
14 circumstances in assessing any fine. Funds received must be deposited
15 in the related program account;
- 16 (i) Denial of an initial or renewal license application for an
17 interval of time; or
- 18 (j) Other corrective action.
- 19 (2) The disciplinary authority may require reimbursement to the
20 disciplinary authority for the investigative costs incurred in
21 investigating the matter that resulted in issuance of an order under
22 this section, but only if any of the sanctions in subsection (1)(a)
23 through (j) of this section is ordered.
- 24 (3) Any of the actions under this section may be totally or partly
25 stayed by the disciplinary authority. In determining what action is
26 appropriate, the disciplinary authority must first consider what
27 sanctions are necessary to protect the public health, safety, or
28 welfare. Only after these provisions have been made may the
29 disciplinary authority consider and include in the order requirements
30 designed to rehabilitate the license holder or applicant. All costs
31 associated with compliance with orders issued under this section are
32 the obligation of the license holder or applicant.
- 33 (4) The licensee or applicant may enter into a stipulated
34 disposition of charges that includes one or more of the sanctions of
35 this section, but only after a statement of charges has been issued and
36 the licensee has been afforded the opportunity for a hearing and has
37 elected on the record to forego such a hearing. The stipulation shall
38 either contain one or more specific findings of unprofessional conduct

1 or a statement by the licensee acknowledging that evidence is
2 sufficient to justify one or more specified findings of unprofessional
3 conduct. The stipulations entered into under this subsection are
4 considered formal disciplinary action for all purposes.

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

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

10 (1) The commission of any act involving moral turpitude,
11 dishonesty, or corruption relating to the practice of the person's
12 profession or operation of the person's business, whether the act
13 constitutes a crime or not. At the disciplinary hearing a certified
14 copy of a final holding of any court of competent jurisdiction is
15 conclusive evidence of the conduct of the license holder or applicant
16 upon which a conviction or the final holding is based. Upon a
17 conviction, however, the judgment and sentence is conclusive evidence
18 at the ensuing disciplinary hearing of the guilt of the license holder
19 or applicant of the crime described in the indictment or information,
20 and of the person's violation of the statute on which it is based. For
21 the purposes of this (~~section~~) subsection, conviction includes all
22 instances in which a plea of guilty or nolo contendere is the basis for
23 the conviction and all proceedings in which the sentence has been
24 deferred or suspended. Except as specifically provided by law, nothing
25 in this (~~section~~) subsection abrogates the provisions of chapter
26 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is
27 required to register as a sex offender under RCW 9A.44.130;

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

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

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

35 (5) The suspension, revocation, or restriction of a license to
36 engage in any business or profession by competent authority in any

1 state, federal, or foreign jurisdiction. A certified copy of the
2 order, stipulation, or agreement is conclusive evidence of the
3 revocation, suspension, or restriction;

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

6 (a) Not furnishing any papers or documents requested by the
7 disciplinary authority;

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

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

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

17 (7) Failure to comply with an order issued by the disciplinary
18 authority;

19 (8) Violating any (~~lawful rule~~) of the provisions of this chapter
20 or the chapters specified in RCW 18.235.020(2) or any rules made by the
21 disciplinary authority under the chapters specified in RCW
22 18.235.020(2);

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

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

27 (11) Misrepresentation in any aspect of the conduct of the business
28 or profession;

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

32 (13) Conviction of any gross misdemeanor or felony relating to the
33 practice of the person's profession or operation of the person's
34 business. For the purposes of this subsection, conviction includes all
35 instances in which a plea of guilty or nolo contendere is the basis for
36 conviction and all proceedings in which the sentence has been deferred
37 or suspended. Except as specifically provided by law, nothing in this

1 ((~~section~~)) subsection abrogates the provisions of chapter 9.96A RCW.
2 However, RCW 9.96A.020 does not apply to a person who is required to
3 register as a sex offender under RCW 9A.44.130; ((~~and~~))

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

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

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

15 (1) The disciplinary authority may investigate complaints
16 concerning practice by unlicensed persons of a profession or business
17 for which a license is required by the chapters specified in RCW
18 18.235.020. In the investigation of the complaints, the director has
19 the same authority as provided the disciplinary authority under RCW
20 18.235.030.

21 (2) The disciplinary authority may issue a notice of intent to
22 issue a cease and desist order to any person whom the disciplinary
23 authority has reason to believe is engaged or is about to engage in the
24 unlicensed practice of a profession or operation of a business for
25 which a license is required by the chapters specified in RCW
26 18.235.020.

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

33 (4) The person to whom such a notice is issued may request an
34 adjudicative proceeding to contest the allegations. The notice shall
35 include a brief, plain statement of the alleged unlicensed activities,
36 act, or practice constituting a violation of this chapter or the
37 chapters specified in RCW 18.235.020(2) or a rule adopted or order

1 issued under those chapters. The request for hearing must be filed
2 within twenty days after service of the notice of intent to issue a
3 cease and desist order. The failure to request a hearing constitutes
4 a default, whereupon the ~~((director))~~ disciplinary authority may enter
5 a permanent cease and desist order, which may include a civil fine.
6 All proceedings shall be conducted in accordance with chapter 34.05
7 RCW.

8 ~~((+3))~~ (5) If the disciplinary authority makes a final
9 determination that a person has engaged or is engaging in unlicensed
10 practice or other act or practice constituting a violation of this
11 chapter or the chapters specified in RCW 18.235.020(2) or a rule
12 adopted or order issued under those chapters, the ~~((director))~~
13 disciplinary authority may issue a permanent cease and desist order.
14 In addition, the disciplinary authority may impose a civil fine in an
15 amount not exceeding one thousand dollars for each day upon which the
16 person engaged in the unlicensed practice of a profession or operation
17 of a business for which a license is required by one or more of the
18 chapters specified in RCW 18.235.020. The proceeds of such a fine
19 shall be deposited in the related program account.

20 ~~((+4) If the disciplinary authority makes a written finding of fact~~
21 ~~that the public interest will be irreparably harmed by delay in issuing~~
22 ~~an order,))~~ (6) The disciplinary authority may issue a temporary cease
23 and desist order if a person is engaged or is about to engage in
24 unlicensed practice or other act or practice constituting a violation
25 of this chapter or the chapters specified in RCW 18.235.020(2) or a
26 rule adopted or order issued under those chapters if the disciplinary
27 authority makes a written finding of fact that the public interest will
28 be irreparably harmed by delay in issuing an order. The person
29 receiving a temporary cease and desist order shall be provided an
30 opportunity for a prompt hearing. A temporary cease and desist order
31 shall remain in effect until further order of the disciplinary
32 authority. The failure to request a prompt or regularly scheduled
33 hearing constitutes a default, whereupon the disciplinary authority may
34 enter a permanent cease and desist order, which may include a civil
35 fine.

36 ~~((+5))~~ (7) The cease and desist order is conclusive proof of
37 unlicensed practice or other act or practice constituting a violation
38 of this chapter or the chapters specified in RCW 18.235.020(2) or a

1 rule adopted or order issued under those chapters and may be enforced
2 under RCW 7.21.060. This method of enforcement of the cease and desist
3 order or civil fine may be used in addition to, or as an alternative
4 to, any provisions for enforcement of agency orders set out in chapter
5 34.05 RCW.

6 ~~((+6+))~~ (8) The attorney general, a county prosecuting attorney,
7 the director, a board or commission, or any person may, in accordance
8 with the laws of this state governing injunctions, maintain an action
9 in the name of the state of Washington to enjoin any person practicing
10 a profession or business without a license for which a license is
11 required by the chapters specified in RCW 18.235.020. All fees, fines,
12 forfeitures, and penalties collected or assessed by a court because of
13 a violation of this section shall be deposited in the related program
14 account.

15 ~~((+7+))~~ (9) The civil remedies in this section do not limit the
16 ability to pursue criminal prosecution as authorized in any of the acts
17 specified in RCW 18.235.020 nor do the civil remedies limit any
18 criminal sanctions.

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

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

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

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

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

- 33 (1) RCW 18.140.175 (Cease and desist orders) and 1993 c 30 s 19;
- 34 (2) RCW 18.85.343 (Violations--Cease and desist orders) and 1997 c
35 322 s 22, 1989 c 175 s 67, & 1977 ex.s. c 261 s 2;

1 (3) RCW 18.220.140 (Unprofessional conduct--Hearing before
2 director--Orders) and 2000 c 253 s 15;
3 (4) RCW 18.220.150 (Unprofessional conduct--Written complaint--
4 Investigation) and 2002 c 86 s 264 & 2000 c 253 s 16;
5 (5) RCW 18.220.170 (Prohibited acts--Class 1 civil infractions) and
6 2000 c 253 s 18; and
7 (6) RCW 18.220.180 (Violation of chapter--Injunction to restrain--
8 Director's authority) and 2000 c 253 s 19.

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