

1 2676-S.E AMS GO S5538.1

2 **ESHB 2676** - S COMM AMD

3 By Committee on Government Operations

4 SCOPE RAISED; RULED OUTSIDE SCOPE AND OBJECT 3/8/94

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

7 **"CHIROPRACTIC**

8 NEW SECTION. **Sec. 101.** A new section is added to chapter 18.25
9 RCW to read as follows:

10 This chapter is enacted:

11 (1) In the exercise of the police power of the state and to provide
12 an adequate public agency to act as a disciplinary body for the members
13 of the chiropractic profession licensed to practice chiropractic in
14 this state;

15 (2) Because the health and well-being of the people of this state
16 are of paramount importance;

17 (3) Because the conduct of members of the chiropractic profession
18 licensed to practice chiropractic in this state plays a vital role in
19 preserving the health and well-being of the people of the state; and

20 (4) Because practicing other healing arts while licensed to
21 practice chiropractic and while holding one's self out to the public as
22 a chiropractor affects the health and welfare of the people of the
23 state.

24 It is the purpose of the commission established under section 104
25 of this act to regulate the competency and quality of professional
26 health care providers under its jurisdiction by establishing,
27 monitoring, and enforcing qualifications for licensing, consistent
28 standards of practice, continuing competency mechanisms, and
29 discipline. Rules, policies, and procedures developed by the
30 commission must promote the delivery of quality health care to the
31 residents of the state.

32 **Sec. 102.** RCW 18.25.005 and 1992 c 241 s 2 are each amended to
33 read as follows:

1 (1) Chiropractic is the practice of health care that deals with the
2 diagnosis or analysis and care or treatment of the vertebral
3 subluxation complex and its effects, articular dysfunction, and
4 musculoskeletal disorders, all for the restoration and maintenance of
5 health and recognizing the recuperative powers of the body.

6 (2) Chiropractic treatment or care includes the use of procedures
7 involving spinal adjustments, and extremity manipulation insofar as any
8 such procedure is complementary or preparatory to a chiropractic spinal
9 adjustment. Chiropractic treatment also includes the use of heat,
10 cold, water, exercise, massage, trigger point therapy, dietary advice
11 and recommendation of nutritional supplementation except for medicines
12 of herbal, animal, or botanical origin, the normal regimen and
13 rehabilitation of the patient, first aid, and counseling on hygiene,
14 sanitation, and preventive measures. Chiropractic care also includes
15 such physiological therapeutic procedures as traction and light, but
16 does not include procedures involving the application of sound,
17 diathermy, or electricity.

18 (3) As part of a chiropractic differential diagnosis, a
19 chiropractor shall perform a physical examination, which may include
20 diagnostic x-rays, to determine the appropriateness of chiropractic
21 care or the need for referral to other health care providers. The
22 chiropractic (~~disciplinary board~~) quality assurance commission shall
23 provide by rule for the type and use of diagnostic and analytical
24 devices and procedures consistent with this chapter.

25 (4) Chiropractic care shall not include the prescription or
26 dispensing of any medicine or drug, the practice of obstetrics or
27 surgery, the use of x-rays or any other form of radiation for
28 therapeutic purposes, colonic irrigation, or any form of venipuncture.

29 (5) Nothing in this chapter prohibits or restricts any other
30 practitioner of a "health profession" defined in RCW 18.120.020(4) from
31 performing any functions or procedures the practitioner is licensed or
32 permitted to perform, and the term "chiropractic" as defined in this
33 chapter shall not prohibit a practitioner licensed under chapter 18.71
34 RCW from performing medical procedures, except such procedures shall
35 not include the adjustment by hand of any articulation of the spine.

36 **Sec. 103.** RCW 18.25.006 and 1992 c 241 s 3 are each amended to
37 read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Department" means the department of health.

4 (2) "Secretary" means the secretary of the department of health or
5 the secretary's designee.

6 (3) "Chiropractor" means an individual licensed under this chapter.

7 (4) (~~("Board" means the Washington state board of chiropractic~~
8 ~~examiners-.)~~) "Commission" means the Washington state chiropractic
9 quality assurance commission.

10 (5) "Vertebral subluxation complex" means a functional defect or
11 alteration of the biomechanical and physiological dynamics in a joint
12 that may cause neuronal disturbances, with or without displacement
13 detectable by x-ray. The effects of the vertebral subluxation complex
14 may include, but are not limited to, any of the following: Fixation,
15 hypomobility, hypermobility, periarticular muscle spasm, edema, or
16 inflammation.

17 (6) "Articular dysfunction" means an alteration of the
18 biomechanical and physiological dynamics of a joint of the axial or
19 appendicular skeleton.

20 (7) "Musculoskeletal disorders" means abnormalities of the muscles,
21 bones, and connective tissue.

22 (8) "Chiropractic differential diagnosis" means a diagnosis to
23 determine the existence of a vertebral subluxation complex, articular
24 dysfunction, or musculoskeletal disorder, and the appropriateness of
25 chiropractic care or the need for referral to other health care
26 providers.

27 (9) "Chiropractic adjustment" means chiropractic care of a
28 vertebral subluxation complex, articular dysfunction, or
29 musculoskeletal disorder. Such care includes manual or mechanical
30 adjustment of any vertebral articulation and contiguous articulations
31 beyond the normal passive physiological range of motion.

32 (10) "Extremity manipulation" means a corrective thrust or maneuver
33 applied to a joint of the appendicular skeleton. The use of extremity
34 manipulation shall be complementary and preparatory to a chiropractic
35 spinal adjustment to support correction of a vertebral subluxation
36 complex and is considered a part of a spinal adjustment and shall not
37 be billed separately from or in addition to a spinal adjustment.

1 NEW SECTION. **Sec. 104.** A new section is added to chapter 18.25
2 RCW to read as follows:

3 COMMISSION ESTABLISHED--MEMBERS APPOINTED BY THE GOVERNOR. The
4 Washington state chiropractic quality assurance commission is
5 established, consisting of fourteen members appointed by the governor
6 to four-year terms, and including eleven practicing chiropractors and
7 three public members. No member may serve more than two consecutive
8 full terms. In appointing the initial members of the commission, it is
9 the intent of the legislature that, to the extent possible, the
10 governor appoint members of the previous boards and committees
11 regulating this profession to the commission. Members of the
12 commission hold office until their successors are appointed. The
13 governor may appoint the members of the initial commissions to
14 staggered terms of from one to four years. Thereafter, all members
15 shall be appointed to full four-year terms. The governor may consider
16 persons who are recommended for appointment by chiropractic
17 associations of this state.

18 NEW SECTION. **Sec. 105.** A new section is added to chapter 18.25
19 RCW to read as follows:

20 COMMISSION--REMOVAL OF MEMBERS--VACANCIES. The governor may remove
21 a member of the commission for neglect of duty, misconduct, or
22 malfeasance or misfeasance in office. Whenever the governor is
23 satisfied that a member of the commission has been guilty of neglect of
24 duty, misconduct, or malfeasance or misfeasance in office, the governor
25 shall file with the secretary of state a statement of the causes for
26 and the order of removal from office, and the secretary shall forthwith
27 send a certified copy of the order of removal and statement of causes
28 by certified mail to the last known post office address of the member.
29 If a vacancy occurs on the commission, the governor shall appoint a
30 replacement to fill the remainder of the unexpired term.

31 NEW SECTION. **Sec. 106.** A new section is added to chapter 18.25
32 RCW to read as follows:

33 COMMISSION--QUALIFICATIONS OF MEMBERS. Members must be citizens of
34 the United States and residents of this state. Members must be
35 licensed chiropractors for a period of five years before appointment.
36 Public members of the commission may not be a member of any other
37 health care licensing board or commission, or have a fiduciary

1 obligation to a facility rendering health services regulated by the
2 commission, or have a material or financial interest in the rendering
3 of health services regulated by the commission.

4 NEW SECTION. **Sec. 107.** A new section is added to chapter 18.25
5 RCW to read as follows:

6 COMMISSION--DUTIES AND POWERS. The commission shall elect officers
7 each year. Meetings of the commission are open to the public, except
8 that the commission may hold executive sessions to the extent permitted
9 by chapter 42.30 RCW. The secretary of health shall furnish such
10 secretarial, clerical, and other assistance as the commission may
11 require.

12 Each member of the commission shall be compensated in accordance
13 with RCW 43.03.240. Members shall be reimbursed for travel expenses
14 incurred in the actual performance of their duties, as provided in RCW
15 43.03.050 and 43.03.060.

16 A majority of the commission members appointed and serving
17 constitutes a quorum for the transaction of commission business. The
18 affirmative vote of a majority of a quorum of the commission is
19 required to carry a motion or resolution, to adopt a rule, or to pass
20 a measure.

21 The commission may appoint members of panels of at least three
22 members. A quorum for transaction of any business by a panel is a
23 minimum of three members. A majority vote of a quorum of the panel is
24 required to transact business delegated to it by the commission.

25 The members of the commission are immune from suit in an action,
26 civil or criminal, based upon its disciplinary proceedings or other
27 official acts performed in good faith as members of the commission.

28 The commission may, whenever the workload of the commission
29 requires, request that the secretary appoint pro tempore members.
30 While serving as members pro tempore persons have all the powers,
31 duties, and immunities, and are entitled to the emoluments, including
32 travel expenses, of the commission.

33 The commission shall prepare or determine the nature of the
34 examinations for applicants to practice chiropractic.

35 The commission may adopt such rules as are consistent with this
36 chapter as may be deemed necessary and proper to carry out the purposes
37 of this chapter.

1 **Sec. 108.** RCW 18.25.019 and 1987 c 150 s 12 are each amended to
2 read as follows:

3 The Uniform Disciplinary Act, chapter 18.130 RCW, governs
4 unlicensed practice (~~(and)~~), the issuance and denial of licenses, and
5 the discipline of licensees under this chapter.

6 **Sec. 109.** RCW 18.25.020 and 1991 c 3 s 38 are each amended to read
7 as follows:

8 (1) Any person not now licensed to practice chiropractic in this
9 state and who desires to practice chiropractic in this state, before it
10 shall be lawful for him or her to do so, shall make application
11 therefor to the secretary, upon such form and in such manner as may be
12 adopted and directed by the secretary. Each applicant who matriculates
13 to a chiropractic college after January 1, 1975, shall have completed
14 not less than one-half of the requirements for a baccalaureate degree
15 at an accredited and approved college or university and shall be a
16 graduate of a chiropractic school or college accredited and approved by
17 the (~~board of chiropractic examiners~~) commission and shall show
18 satisfactory evidence of completion by each applicant of a resident
19 course of study of not less than four thousand classroom hours of
20 instruction in such school or college. Applications shall be in
21 writing and shall be signed by the applicant in his or her own
22 handwriting and shall be sworn to before some officer authorized to
23 administer oaths, and shall recite the history of the applicant as to
24 his or her educational advantages, his or her experience in matters
25 pertaining to a knowledge of the care of the sick, how long he or she
26 has studied chiropractic, under what teachers, what collateral
27 branches, if any, he or she has studied, the length of time he or she
28 has engaged in clinical practice; accompanying the same by reference
29 therein, with any proof thereof in the shape of diplomas, certificates,
30 and shall accompany said application with satisfactory evidence of good
31 character and reputation.

32 (2) There shall be paid to the secretary by each applicant for a
33 license, a fee determined by the secretary as provided in RCW 43.70.250
34 which shall accompany application and a fee determined by the secretary
35 as provided in RCW 43.70.250, which shall be paid upon issuance of
36 license. Like fees shall be paid for any subsequent examination and
37 application.

1 **Sec. 110.** RCW 18.25.025 and 1980 c 51 s 3 are each amended to read
2 as follows:

3 The ((board)) commission shall have authority to grant
4 accreditation to chiropractic schools and colleges.

5 The ((board)) commission shall have authority to adopt educational
6 standards which may include standards of any accreditation agency
7 recognized by the office of education of the department of health and
8 human services or its successor agency, or any portion of such
9 standards, as the ((board's)) commission's standards: PROVIDED, That
10 such standards, so adopted, shall contain, as a minimum of on-campus
11 instruction in chiropractic, the following: Principles of
12 chiropractic, two hundred hours; adjustive technique, four hundred
13 hours; spinal roentgenology, one hundred seventy-five hours;
14 symptomatology and diagnosis, four hundred twenty-five hours; clinic,
15 six hundred twenty-five hours: PROVIDED FURTHER, That such standards
16 shall not mandate, as a requirement for either graduation or
17 accreditation, or include in the computation of hours of chiropractic
18 instruction required by this section, instruction in the following:
19 Mechanotherapy, physiotherapy, acupuncture, acupressure, or any other
20 therapy.

21 The ((board)) commission shall approve and accredit chiropractic
22 colleges and schools which apply for ((board)) commission accreditation
23 and approval and which meet to the ((board's)) commission's
24 satisfaction the educational standards adopted by the ((board))
25 commission. It shall be the responsibility of the college to apply for
26 accreditation and approval, and of a student to ascertain whether a
27 college or school has been accredited or approved by the ((board))
28 commission.

29 The ((board)) commission shall have authority to engage assistants
30 in the giving of examinations called for under this chapter.

31 **Sec. 111.** RCW 18.25.030 and 1989 c 258 s 4 are each amended to
32 read as follows:

33 Examinations for license to practice chiropractic shall be made by
34 the ((board of chiropractic examiners)) commission according to the
35 method deemed by it to be the most practicable and expeditious to test
36 the applicant's qualifications. Such application shall be designated
37 by a number instead of his or her name, so that the identity shall not

1 be discovered or disclosed to the members of the ((examining
2 committee)) commission until after the examination papers are graded.

3 All examinations shall be in whole or in part in writing, the
4 subject of which shall be as follows: Anatomy, physiology, spinal
5 anatomy, microbiology-public health, general diagnosis,
6 neuromuscularskeletal diagnosis, x-ray, principles of chiropractic and
7 adjusting, as taught by chiropractic schools and colleges. The
8 ((board)) commission shall administer a practical examination to
9 applicants which shall consist of diagnosis, principles and practice,
10 x-ray, and adjustive technique consistent with chapter 18.25 RCW. A
11 license shall be granted to all applicants whose score over each
12 subject tested is seventy-five percent. The ((board)) commission may
13 enact additional requirements for testing administered by the national
14 board of chiropractic examiners.

15 **Sec. 112.** RCW 18.25.035 and 1971 ex.s. c 227 s 5 are each amended
16 to read as follows:

17 The ((board)) commission may, in its discretion, waive any
18 examination required by this chapter of persons applying for a license
19 to practice chiropractic if, in its opinion, the applicant has
20 successfully passed an examination conducted by the national board of
21 chiropractic examiners of the United States that is of equal or greater
22 difficulty than the examination being waived by the ((board))
23 commission.

24 **Sec. 113.** RCW 18.25.040 and 1991 c 320 s 8 are each amended to
25 read as follows:

26 Persons licensed to practice chiropractic under the laws of any
27 other state, territory of the United States, the District of Columbia,
28 Puerto Rico, or province of Canada, having qualifications substantially
29 equivalent to those required by this chapter, may, in the discretion of
30 the ((~~board of chiropractic examiners~~)) commission, and after such
31 examination as may be required by rule of the ((board)) commission, be
32 issued a license to practice in this state without further examination,
33 upon payment of a fee determined by the secretary as provided in RCW
34 43.70.250.

35 **Sec. 114.** RCW 18.25.070 and 1991 c 3 s 40 are each amended to read
36 as follows:

1 (1) Every person practicing chiropractic shall, as a prerequisite
2 to annual renewal of license, submit to the secretary at the time of
3 application therefor, satisfactory proof showing attendance of at least
4 twenty-five hours during the preceding twelve-month period, at one or
5 more chiropractic symposiums which are recognized and approved by the
6 (~~board of chiropractic examiners:—~~PROVIDED, ~~That the board~~)
7 commission. The commission may, for good cause shown, waive said
8 attendance. The following guidelines for such symposiums shall apply:

9 (a) The (~~board~~) commission shall set criteria for the course
10 content of educational symposia concerning matters which are recognized
11 by the state of Washington chiropractic licensing laws; it shall be the
12 licensee's responsibility to determine whether the course content meets
13 these criteria;

14 (b) The (~~board~~) commission shall adopt standards for distribution
15 of annual continuing education credit requirements;

16 (c) Rules shall be adopted by the (~~board~~) commission for
17 licensees practicing and residing outside the state who shall meet all
18 requirements established by rule of the (~~board by rules and~~
19 ~~regulations~~) commission.

20 (2) Every person practicing chiropractic within this state shall
21 pay on or before his or her birth anniversary date, after a license is
22 issued to him or her as (~~herein~~) provided in this chapter, to
23 (~~said~~) the secretary a renewal license fee to be determined by the
24 secretary as provided in RCW 43.70.250. The secretary shall, thirty
25 days or more before the birth anniversary date of each chiropractor in
26 the state, mail to that chiropractor a notice of the fact that the
27 renewal fee will be due on or before his or her birth anniversary date.
28 Nothing in this chapter shall be construed so as to require that the
29 receipts shall be recorded as original licenses are required to be
30 recorded.

31 The failure of any licensed chiropractor to pay his or her annual
32 license renewal fee within thirty days of license expiration shall work
33 a forfeiture of his or her license. It shall not be reinstated except
34 upon evidence that continuing educational requirements have been
35 fulfilled and the payment of a penalty to be determined by the
36 secretary as provided in RCW 43.70.250, together with all annual
37 license renewal fees delinquent at the time of the forfeiture, and
38 those for each year thereafter up to the time of reinstatement.
39 (~~Should the licentiate~~) If the licensee allows his or her license to

1 ((elapse)) lapse for more than three years, he or she may be reexamined
2 as provided for in RCW 18.25.040 at the discretion of the ((board))
3 commission.

4 **Sec. 115.** RCW 18.25.075 and 1991 c 3 s 41 are each amended to read
5 as follows:

6 (1) An individual may place his or her license on inactive status.
7 The holder of an inactive license shall not practice chiropractic in
8 this state without first activating the license.

9 (2) The inactive renewal fee shall be established by the secretary
10 pursuant to RCW 43.70.250. Failure to renew an inactive license shall
11 result in cancellation in the same manner as an active license.

12 (3) An inactive license may be placed in an active status upon
13 compliance with the rules established by the ((board)) commission.

14 (4) The provisions relating to the denial, suspension, and
15 revocation of a license shall be applicable to an inactive license,
16 except that when proceedings to suspend or revoke an inactive license
17 have been initiated, the license shall remain inactive until the
18 proceedings have been completed.

19 NEW SECTION. **Sec. 116.** A new section is added to chapter 18.25
20 RCW to read as follows:

21 (1) In addition to those acts defined in chapter 18.130 RCW, the
22 term "unprofessional conduct" as used in this chapter includes failing
23 to differentiate chiropractic care from any and all other methods of
24 healing at all times.

25 (2) Proceedings involving alleged unprofessional conduct shall be
26 prosecuted by the attorney general upon the direction of the
27 commission.

28 **Sec. 117.** RCW 18.25.180 and 1991 c 222 s 9 are each amended to
29 read as follows:

30 (1) A chiropractor may employ a technician to operate x-ray
31 equipment after the technician has registered with the ((board))
32 commission.

33 (2) The ((board)) commission may adopt rules necessary and
34 appropriate to carry out the purposes of this section.

1 **Sec. 118.** RCW 18.25.190 and 1991 c 320 s 10 are each amended to
2 read as follows:

3 Nothing in this chapter shall be construed to prohibit:

4 (1) The temporary practice in this state of chiropractic by any
5 chiropractor licensed by another state, territory, or country in which
6 he or she resides. However, the chiropractor shall not establish a
7 practice open to the general public and shall not engage in temporary
8 practice under this section for a period longer than thirty days. The
9 chiropractor shall register his or her intention to engage in the
10 temporary practice of chiropractic in this state with the (~~board of~~
11 ~~chiropractic examiners~~) commission before engaging in the practice of
12 chiropractic, and shall agree to be bound by such conditions as may be
13 prescribed by rule by the (~~board~~) commission.

14 (2) The practice of chiropractic, except the administration of a
15 chiropractic adjustment, by a person who is a regular senior student in
16 an accredited school of chiropractic approved by the (~~board~~)
17 commission if the practice is part of a regular course of instruction
18 offered by the school and the student is under the direct supervision
19 and control of a chiropractor duly licensed pursuant to this chapter
20 and approved by the (~~board~~) commission.

21 (3) The practice of chiropractic by a person serving a period of
22 postgraduate chiropractic training in a program of clinical
23 chiropractic training sponsored by a school of chiropractic accredited
24 in this state if the practice is part of his or her duties as a
25 clinical postgraduate trainee and the trainee is under the direct
26 supervision and control of a chiropractor duly licensed pursuant to
27 this chapter and approved by the (~~board~~) commission.

28 (4) The practice of chiropractic by a person who is eligible and
29 has applied to take the next available examination for licensing
30 offered by the (~~board of chiropractic examiners~~) commission, except
31 that the unlicensed chiropractor must provide all services under the
32 direct control and supervision of a licensed chiropractor approved by
33 the (~~board~~) commission. The unlicensed chiropractor may continue to
34 practice as provided by this subsection until the results of the next
35 available examination are published, but in no case for a period longer
36 than six months. The (~~board~~) commission shall adopt rules necessary
37 to effectuate the intent of this subsection.

38 Any provision of chiropractic services by any individual under
39 subsection (1), (2), (3), or (4) of this section shall be subject to

1 the jurisdiction of the (~~chiropractic disciplinary board~~) commission
2 as provided in chapters 18.26 and 18.130 RCW.

3 NEW SECTION. **Sec. 119.** A new section is added to chapter 18.25
4 RCW to read as follows:

5 The commission is the successor in interest of the board of
6 chiropractic examiners, the chiropractic disciplinary board, and the
7 chiropractic peer review committee. All contracts, undertakings,
8 agreements, rules, regulations, and policies of those bodies continue
9 in full force and effect on the effective date of this act, unless
10 otherwise repealed or rejected by chapter . . ., Laws of 1994 (this
11 act) or by the commission.

12 NEW SECTION. **Sec. 120.** RCW 18.25.120, 18.25.130, 18.25.140,
13 18.25.150, 18.25.160, and 18.25.170 are each recodified within chapter
14 18.25 RCW between RCW 18.25.019 and 18.25.020.

15 NEW SECTION. **Sec. 121.** The following acts or parts of acts are
16 each repealed:

17 (1) RCW 18.25.015 and 1989 c 258 s 1, 1984 c 279 s 49, 1980 c 51 s
18 1, 1965 ex.s. c 50 s 1, & 1959 c 53 s 1;

19 (2) RCW 18.25.016 and 1989 c 258 s 13;

20 (3) RCW 18.25.017 and 1991 c 3 s 37, 1986 c 259 s 23, 1984 c 287 s
21 27, 1975-'76 2nd ex.s. c 34 s 32, 1974 ex.s. c 97 s 8, & 1959 c 53 s 2;

22 (4) RCW 18.26.010 and 1989 c 258 s 7 & 1967 c 171 s 1;

23 (5) RCW 18.26.020 and 1991 c 3 s 43, 1989 c 258 s 8, & 1967 c 171
24 s 2;

25 (6) RCW 18.26.028 and 1987 c 150 s 13 & 1986 c 259 s 22;

26 (7) RCW 18.26.030 and 1986 c 259 s 25, 1979 ex.s. c 111 s 17, 1975
27 1st ex.s. c 39 s 1, 1974 ex.s. c 97 s 12, & 1967 c 171 s 3;

28 (8) RCW 18.26.040 and 1989 c 258 s 9 & 1980 c 46 s 1;

29 (9) RCW 18.26.050 and 1991 c 3 s 44, 1979 c 158 s 21, & 1967 c 171
30 s 5;

31 (10) RCW 18.26.060 and 1967 c 171 s 6;

32 (11) RCW 18.26.070 and 1991 c 3 s 45, 1984 c 287 s 28, & 1980 c 46
33 s 2;

34 (12) RCW 18.26.080 and 1967 c 171 s 8;

35 (13) RCW 18.26.090 and 1989 c 258 s 11 & 1967 c 171 s 9;

- 1 (14) RCW 18.26.110 and 1986 c 259 s 26, 1975 1st ex.s. c 39 s 2, &
2 1967 c 171 s 11;
3 (15) RCW 18.26.320 and 1991 c 320 s 1;
4 (16) RCW 18.26.330 and 1991 c 320 s 2;
5 (17) RCW 18.26.340 and 1991 c 320 s 3;
6 (18) RCW 18.26.350 and 1991 c 320 s 4;
7 (19) RCW 18.26.360 and 1991 c 320 s 5;
8 (20) RCW 18.26.370 and 1991 c 320 s 6;
9 (21) RCW 18.26.380 and 1991 c 320 s 7;
10 (22) RCW 18.26.390 and 1991 c 320 s 11; and
11 (23) RCW 18.26.900 and 1967 c 171 s 31.

12 **DENTAL**

13 NEW SECTION. **Sec. 201.** A new section is added to chapter 18.32
14 RCW to read as follows:

15 The legislature finds that the health and well-being of the people
16 of this state are of paramount importance.

17 The legislature further finds that the conduct of members of the
18 dental profession licensed to practice dentistry in this state plays a
19 vital role in preserving the health and well-being of the people of the
20 state.

21 The legislature further finds that there is no effective means of
22 handling disciplinary proceedings against members of the dental
23 profession licensed in this state when such proceedings are necessary
24 for the protection of the public health.

25 Therefore, the legislature declares its intention to exercise the
26 police power of the state to protect the public health, to promote the
27 welfare of the state, and to provide a commission to act as a
28 disciplinary and regulatory body for the members of the dental
29 profession licensed to practice dentistry in this state.

30 It is the purpose of the commission established in section 204 of
31 this act to regulate the competency and quality of professional health
32 care providers under its jurisdiction by establishing, monitoring, and
33 enforcing qualifications for licensure, consistent standards of
34 practice, continuing competency mechanisms, and discipline. Rules,
35 policies, and procedures developed by the commission must promote the
36 delivery of quality health care to the residents of the state.

1 **Sec. 202.** RCW 18.32.010 and 1991 c 3 s 58 are each amended to read
2 as follows:

3 Words used in the singular in this chapter may also be applied to
4 the plural of the persons and things; words importing the plural may be
5 applied to the singular; words importing the masculine gender may be
6 extended to females also; the term "~~((board))~~ commission" used in this
7 chapter shall mean the Washington state (~~((board of dental examiners))~~)
8 dental quality assurance commission; and the term "secretary" shall
9 mean the secretary of health of the state of Washington.

10 **Sec. 203.** RCW 18.32.030 and 1991 c 3 s 59 are each amended to read
11 as follows:

12 The following practices, acts, and operations are excepted from the
13 operation of the provisions of this chapter:

14 (1) The rendering of dental relief in emergency cases in the
15 practice of his or her profession by a physician or surgeon, licensed
16 as such and registered under the laws of this state, unless the
17 physician or surgeon undertakes to or does reproduce lost parts of the
18 human teeth in the mouth or to restore or to replace in the human mouth
19 lost or missing teeth;

20 (2) The practice of dentistry in the discharge of official duties
21 by dentists in the United States federal services on federal
22 reservations, including but not limited to the armed services, coast
23 guard, public health service, veterans' bureau, or bureau of Indian
24 affairs;

25 (3) Dental schools or colleges approved under RCW 18.32.040, and
26 the practice of dentistry by students in Washington state dental
27 schools or colleges approved by the (~~((board))~~) commission, when acting
28 under the direction and supervision of Washington state-licensed dental
29 school faculty;

30 (4) The practice of dentistry by licensed dentists of other states
31 or countries while appearing as clinicians at meetings of the
32 Washington state dental association, or component parts thereof, or at
33 meetings sanctioned by them, or other groups approved by the (~~((board of~~
34 ~~dental examiners))~~) commission;

35 (5) The use of roentgen and other rays for making radiographs or
36 similar records of dental or oral tissues, under the supervision of a
37 licensed dentist or physician;

1 (6) The making, repairing, altering, or supplying of artificial
2 restorations, substitutions, appliances, or materials for the
3 correction of disease, loss, deformity, malposition, dislocation,
4 fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or
5 associated tissues or parts; providing the same are made, repaired,
6 altered, or supplied pursuant to the written instructions and order of
7 a licensed dentist which may be accompanied by casts, models, or
8 impressions furnished by the dentist, and the prescriptions shall be
9 retained and filed for a period of not less than three years and shall
10 be available to and subject to the examination of the secretary or the
11 secretary's authorized representatives;

12 (7) The removal of deposits and stains from the surfaces of the
13 teeth, the application of topical preventative or prophylactic agents,
14 and the polishing and smoothing of restorations, when performed or
15 prescribed by a dental hygienist licensed under the laws of this state;

16 (8) A qualified and licensed physician and surgeon or osteopathic
17 physician and surgeon extracting teeth or performing oral surgery
18 pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

19 (9) The performing of dental operations or services by persons not
20 licensed under this chapter when performed under the supervision of a
21 licensed dentist: PROVIDED HOWEVER, That such nonlicensed person shall
22 in no event perform the following dental operations or services unless
23 permitted to be performed by the person under this chapter or chapters
24 18.29, 18.57, 18.71, and ((18.88 RCW:)) 18.-- RCW (sections 401
25 through 431 of this act) as it applies to registered nurses and
26 advanced registered nurse practitioners:

27 (a) Any removal of or addition to the hard or soft tissue of the
28 oral cavity;

29 (b) Any diagnosis of or prescription for treatment of disease,
30 pain, deformity, deficiency, injury, or physical condition of the human
31 teeth or jaws, or adjacent structure;

32 (c) Any administration of general or injected local anaesthetic of
33 any nature in connection with a dental operation, including intravenous
34 sedation;

35 (d) Any oral prophylaxis;

36 (e) The taking of any impressions of the teeth or jaw or the
37 relationships of the teeth or jaws, for the purpose of fabricating any
38 intra-oral restoration, appliance, or prosthesis.

1 NEW SECTION. **Sec. 204.** A new section is added to chapter 18.32
2 RCW to read as follows:

3 COMMISSION ESTABLISHED--MEMBERS APPOINTED. The Washington state
4 dental quality assurance commission is established, consisting of
5 fourteen members each appointed by the governor to a four-year term.
6 No member may serve more than two consecutive full terms. In
7 appointing the initial members of the commission, it is the intent of
8 the legislature that, to the extent possible, members of the previous
9 boards and committees regulating these professions be appointed to the
10 commission. Members of the commission hold office until their
11 successors are appointed. The governor may appoint members of the
12 initial commission to staggered terms of from one to four years.
13 Thereafter, all members shall be appointed to full four-year terms.
14 Twelve members of the commission must be dentists and two members must
15 be public members.

16 NEW SECTION. **Sec. 205.** A new section is added to chapter 18.32
17 RCW to read as follows:

18 COMMISSION--REMOVAL OF MEMBERS--VACANCIES. The governor may remove
19 a member of the commission for neglect of duty, misconduct, or
20 malfeasance or misfeasance in office. Whenever the governor is
21 satisfied that a member of the commission has been guilty of neglect of
22 duty, misconduct, or malfeasance or misfeasance in office, the governor
23 shall file with the secretary of state a statement of the causes for
24 and the order of removal from office, and the secretary shall forthwith
25 send a certified copy of the order of removal and statement of causes
26 by certified mail to the last known post office address of the member.
27 If a vacancy occurs on the commission, the governor shall appoint a
28 replacement to fill the remainder of the unexpired term.

29 NEW SECTION. **Sec. 206.** A new section is added to chapter 18.32
30 RCW to read as follows:

31 COMMISSION--QUALIFICATIONS OF MEMBERS. Members must be citizens of
32 the United States and residents of this state. Dentist members must be
33 licensed dentists in the active practice of dentistry for a period of
34 five years before appointment. Of the twelve dentists appointed to the
35 commission, at least four must reside and engage in the active practice
36 of dentistry east of the summit of the Cascade mountain range. Public
37 members of the commission may not be a member of any other health care

1 licensing board or commission, or have a fiduciary obligation to a
2 facility rendering health services regulated by the commission, or have
3 a material or financial interest in the rendering of health services
4 regulated by the commission.

5 NEW SECTION. **Sec. 207.** A new section is added to chapter 18.32
6 RCW to read as follows:

7 COMMISSION--DUTIES AND POWERS. The commission shall elect officers
8 each year. Meetings of the commission are open to the public, except
9 the commission may hold executive sessions to the extent permitted by
10 chapter 42.30 RCW. The secretary of health shall furnish such
11 secretarial, clerical, and other assistance as the commission may
12 require.

13 A majority of the commission members appointed and serving
14 constitutes a quorum for the transaction of commission business. The
15 affirmative vote of a majority of a quorum of the commission is
16 required to carry a motion or resolution, to adopt a rule, or to pass
17 a measure.

18 The commission may appoint members of panels consisting of not less
19 than three members. A quorum for transaction of any business shall be
20 a minimum of three members. A majority vote of a quorum of the panel
21 is required to transact business delegated to it by the commission.

22 The members of the commission are immune from suit in an action,
23 civil or criminal, based upon its disciplinary proceedings or other
24 official acts performed in good faith as members of the commission.

25 The commission may, whenever the workload of the commission
26 requires, request that the secretary appoint pro tempore members.
27 While serving as members pro tempore persons have all the powers,
28 duties, and immunities, and are entitled to the emoluments, including
29 travel expenses, of the commission.

30 The commission shall prepare or determine the nature of the
31 examinations for applicants to practice dentistry.

32 The attorney general shall advise the commission and represent it
33 in all legal proceedings.

34 NEW SECTION. **Sec. 208.** A new section is added to chapter 18.32
35 RCW to read as follows:

36 Each member of the commission shall be compensated in accordance
37 with RCW 43.03.240. Members shall be reimbursed for travel expenses

1 incurred in the actual performance of their duties, as provided in RCW
2 43.03.050 and 43.03.060. Commission members shall be compensated and
3 reimbursed for their activities in developing or administering a
4 multistate licensing examination, as provided in this chapter.

5 NEW SECTION. **Sec. 209.** A new section is added to chapter 18.32
6 RCW to read as follows:

7 The commission may contract with competent persons on a temporary
8 basis to assist in developing or administering examinations for
9 licensure.

10 The commission may enter into compacts and agreements with other
11 states and with organizations formed by several states, for the purpose
12 of conducting multistate licensing examinations. The commission may
13 enter into the compacts and agreements even though they would result in
14 the examination of a candidate for a license in this state by an
15 examiner or examiners from another state or states, and even though the
16 compacts and agreements would result in the examination of a candidate
17 or candidates for a license in another state or states by an examiner
18 or examiners from this state.

19 NEW SECTION. **Sec. 210.** A new section is added to chapter 18.32
20 RCW to read as follows:

21 The commission may adopt rules in accordance with chapter 34.05 RCW
22 to implement this chapter and chapter 18.130 RCW.

23 **Sec. 211.** RCW 18.32.040 and 1991 c 3 s 61 are each amended to read
24 as follows:

25 The ((board)) commission shall require that every applicant for a
26 license to practice dentistry shall:

27 (1) Present satisfactory evidence of graduation from a dental
28 college, school, or dental department of an institution approved by the
29 ((board)) commission;

30 (2) Submit, for the files of the ((board)) commission, a recent
31 picture duly identified and attested; and

32 (3) Pass an examination prepared or approved by and administered
33 under the direction of the ((board)) commission. The dentistry
34 licensing examination shall consist of practical and written tests upon
35 such subjects and of such scope as the ((board)) commission determines.
36 The ((board)) commission may accept, in lieu of all or part of a

1 written examination, a certificate granted by a national or regional
2 testing organization approved by the ((board)) commission. The
3 ((board)) commission shall set the standards for passing the
4 examination. The secretary shall keep on file the examination papers
5 and records of examination for at least one year. This file shall be
6 open for inspection by the applicant or the applicant's agent unless
7 the disclosure will compromise the examination process as determined by
8 the ((board)) commission or is exempted from disclosure under RCW
9 42.17.250 through 42.17.340.

10 **Sec. 212.** RCW 18.32.050 and 1984 c 287 s 30 are each amended to
11 read as follows:

12 ~~((The members of the board shall each be compensated in accordance
13 with RCW 43.03.240 and shall be reimbursed for travel expenses incurred
14 in attending the meetings of the board in accordance with RCW 43.03.050
15 and 43.03.060.—Board))~~ Commission members shall be compensated and
16 reimbursed pursuant to this section for their activities in
17 administering a multi-state licensing examination pursuant to the
18 ((board's)) commission's compact or agreement with another state or
19 states or with organizations formed by several states(~~(:—PROVIDED,
20 That any)~~). Compensation or reimbursement received by a ((board))
21 commission member from another state, or organization formed by several
22 states, for such member's services in administering a multi-state
23 licensing examination, shall be deposited in the state general fund.

24 **Sec. 213.** RCW 18.32.100 and 1991 c 3 s 62 are each amended to read
25 as follows:

26 The applicant for a dentistry license shall file an application on
27 a form furnished by the secretary, stating the applicant's name, age,
28 place of residence, the name of the school or schools attended by the
29 applicant, the period of such attendance, the date of the applicant's
30 graduation, whether the applicant has ever been the subject of any
31 disciplinary action related to the practice of dentistry, and shall
32 include a statement of all of the applicant's dental activities. This
33 shall include any other information deemed necessary by the ((board))
34 commission.

35 The application shall be signed by the applicant and sworn to by
36 the applicant before some person authorized to administer oaths, and

1 shall be accompanied by proof of the applicant's school attendance and
2 graduation.

3 **Sec. 214.** RCW 18.32.120 and 1991 c 3 s 64 are each amended to read
4 as follows:

5 When the application and the accompanying proof are found
6 satisfactory, the secretary shall notify the applicant to appear before
7 the ((board)) commission at a time and place to be fixed by the
8 ((board)) commission.

9 The examination papers, and all grading thereon, and the grading of
10 the practical work, shall be preserved for a period of not less than
11 one year after the ((board)) commission has made and published its
12 decisions thereon. All examinations shall be conducted by the
13 ((board)) commission under fair and wholly impartial methods.

14 Any applicant who fails to make the required grade by his or her
15 fourth examination may be reexamined only under rules adopted by the
16 ((board)) commission.

17 Applicants for examination or reexamination shall pay a fee as
18 determined by the secretary as provided in RCW 43.70.250.

19 **Sec. 215.** RCW 18.32.160 and 1991 c 3 s 65 are each amended to read
20 as follows:

21 All licenses issued by the secretary on behalf of the ((board))
22 commission shall be signed by the secretary or chairperson and
23 secretary of the ((board)) commission.

24 **Sec. 216.** RCW 18.32.180 and 1991 c 3 s 67 are each amended to read
25 as follows:

26 (1) Every person licensed to practice dentistry in this state shall
27 register with the secretary, and pay a renewal registration fee
28 determined by the secretary as provided in RCW 43.70.250. Any failure
29 to register and pay the renewal registration fee renders the license
30 invalid, and the practice of dentistry shall not be permitted. The
31 license shall be reinstated upon written application to the secretary
32 and payment to the state of a penalty fee determined by the secretary
33 as provided in RCW 43.70.250, together with all delinquent license
34 renewal fees.

35 (2) A person who fails to renew the license for a period of three
36 years may not renew the license under subsection (1) of this section.

1 In order to obtain a license to practice dentistry in this state, such
2 a person shall file an original application as provided for in this
3 chapter, along with the requisite fees. The ((~~board~~)) commission, in
4 its sole discretion, may permit the applicant to be licensed without
5 examination, and with or without conditions, if it is satisfied that
6 the applicant meets all the requirements for licensure in this state
7 and is competent to engage in the practice of dentistry.

8 **Sec. 217.** RCW 18.32.190 and 1991 c 3 s 68 are each amended to read
9 as follows:

10 Every person who engages in the practice of dentistry in this state
11 shall cause his or her license to be, at all times, displayed in a
12 conspicuous place, in his or her office wherein he or she shall
13 practice such profession, and shall further, whenever requested,
14 exhibit such license to any of the members of ((~~said board~~)) the
15 commission, or its authorized agent, and to the secretary or his or her
16 authorized agent. Every licensee shall notify the secretary of the
17 address or addresses, and of every change thereof, where the licensee
18 shall engage in the practice of dentistry.

19 **Sec. 218.** RCW 18.32.195 and 1992 c 59 s 1 are each amended to read
20 as follows:

21 The ((~~board~~)) commission may, without examination, issue a license
22 to persons who possess the qualifications set forth in this section.

23 (1) The ((~~board~~)) commission may, upon written request of the dean
24 of the school of dentistry of the University of Washington, issue a
25 license to practice dentistry in this state to persons who have been
26 licensed or otherwise authorized to practice dentistry in another state
27 or country and who have been accepted for employment by the school of
28 dentistry as full-time faculty members. For purposes of this
29 subsection, this means teaching members of the faculty of the school of
30 dentistry of the University of Washington who are so employed on a one
31 hundred percent of work time basis. Such license shall permit the
32 holder thereof to practice dentistry within the confines of the
33 university facilities for a period of one year while he or she is so
34 employed as a full-time faculty member by the school of dentistry of
35 the University of Washington. It shall terminate whenever the holder
36 ceases to be such a full-time faculty member. Such license shall
37 permit the holder thereof to practice dentistry only in connection with

1 his or her duties in employment with the school of dentistry of the
2 University of Washington. This limitation shall be stated on the
3 license.

4 (2) The (~~board~~) commission may, upon written request of the dean
5 of the school of dentistry of the University of Washington, issue a
6 limited license to practice dentistry in this state to university
7 residents in postgraduate dental education. The license shall permit
8 the resident dentist to provide dental care only in connection with his
9 or her duties as a university resident.

10 (3) The (~~board~~) commission may condition the granting of a
11 license under this section with terms the (~~board~~) commission deems
12 appropriate. All persons licensed under this section shall be subject
13 to the jurisdiction of the (~~dental disciplinary board~~) commission to
14 the same extent as other members of the dental profession, in
15 accordance with this chapter, and in addition the licensee may be
16 disciplined by the (~~dental disciplinary board~~) commission after a
17 hearing has been held in accordance with the provisions set forth in
18 this chapter, and determination by the (~~dental disciplinary board~~)
19 commission that such licensee has violated any of the restrictions set
20 forth in this section.

21 (4) Persons applying for licensure pursuant to this section shall
22 pay the application fee determined by the secretary and, in the event
23 the license applied for is issued, a license fee at the rate provided
24 for licenses generally. After review by the (~~board of dental~~
25 ~~examiners~~) commission, licenses issued under this section may be
26 renewed annually if the licensee continues to be employed as a full-
27 time faculty member of the school of dentistry of the University of
28 Washington, or a university resident in postgraduate dental education,
29 and otherwise meets the requirements of the provisions and conditions
30 deemed appropriate by the (~~board of dental examiners~~) commission.
31 Any person who obtains a license pursuant to this section may, without
32 an additional application fee, apply for licensure under this chapter,
33 in which case the applicant shall be subject to examination and the
34 other requirements of this chapter.

35 **Sec. 219.** RCW 18.32.215 and 1989 c 202 s 30 are each amended to
36 read as follows:

37 An applicant holding a valid license and currently engaged in
38 practice in another state may be granted a license without examination

1 required by this chapter, on the payment of any required fees, if the
2 ((board)) commission determines that the other state's licensing
3 standards are substantively equivalent to the standards in this
4 state(~~(:—PROVIDED, That)~~). The ((board)) commission may also require
5 the applicant to: (1) File with the ((board)) commission documentation
6 certifying the applicant is licensed to practice in another state; and
7 (2) provide information as the ((board)) commission deems necessary
8 pertaining to the conditions and criteria of the Uniform Disciplinary
9 Act, chapter 18.130 RCW, and to demonstrate to the ((board)) commission
10 a knowledge of Washington law pertaining to the practice of dentistry.

11 **Sec. 220.** RCW 18.32.534 and 1991 c 3 s 72 are each amended to read
12 as follows:

13 (1) To implement an impaired dentist program as authorized by RCW
14 18.130.175, the (~~(dental disciplinary board)~~) commission shall enter
15 into a contract with a voluntary substance abuse monitoring program.
16 The impaired dentist program may include any or all of the following:

- 17 (a) Contracting with providers of treatment programs;
- 18 (b) Receiving and evaluating reports of suspected impairment from
19 any source;
- 20 (c) Intervening in cases of verified impairment;
- 21 (d) Referring impaired dentists to treatment programs;
- 22 (e) Monitoring the treatment and rehabilitation of impaired
23 dentists including those ordered by the ((board)) commission;
- 24 (f) Providing education, prevention of impairment, posttreatment
25 monitoring, and support of rehabilitated impaired dentists; and
- 26 (g) Performing other related activities as determined by the
27 ((board)) commission.

28 (2) A contract entered into under subsection (1) of this section
29 shall be financed by a surcharge of up to fifteen dollars on each
30 license issuance or renewal to be collected by the department of health
31 from every dentist licensed under chapter 18.32 RCW. These moneys
32 shall be placed in the health professions account to be used solely for
33 the implementation of the impaired dentist program.

34 **Sec. 221.** RCW 18.32.640 and 1988 c 217 s 1 are each amended to
35 read as follows:

36 (1) The ((board)) commission may adopt(~~(, amend, and rescind)~~) such
37 rules as it deems necessary to carry out this chapter.

1 (2) The ~~((board))~~ commission may adopt rules governing
2 administration of sedation and general anesthesia by persons licensed
3 under this chapter, including necessary training, education, equipment,
4 and the issuance of any permits, certificates, or registration as
5 required.

6 **Sec. 222.** RCW 18.32.655 and 1986 c 259 s 35 are each amended to
7 read as follows:

8 The ~~((dental disciplinary board has the power and it shall be its
9 duty to))~~ commission shall:

10 (1) Require licensed dentists to keep and maintain a copy of each
11 laboratory referral instruction, describing detailed services rendered,
12 for a period to be determined by the ~~((board))~~ commission but not more
13 than three years, and ~~((to))~~ may require the production of all such
14 records for examination by the ~~((board))~~ commission or its authorized
15 representatives; and

16 (2) ~~((Promulgate))~~ Adopt reasonable rules ~~((and regulations))~~
17 requiring licensed dentists to make, maintain, and produce for
18 examination by the ~~((board))~~ commission or its authorized
19 representatives such other records as may be reasonable and proper in
20 the performance of its duties and enforcing the provisions of this
21 chapter.

22 **Sec. 223.** RCW 18.32.665 and 1986 c 259 s 36 are each amended to
23 read as follows:

24 It shall be unlawful for any person, firm, or corporation to
25 publish, directly or indirectly, or circulate any fraudulent, false, or
26 misleading statements within the state of Washington as to the skill or
27 method of practice of any person or operator; or in any way to
28 advertise in print any matter with a view of deceiving the public, or
29 in any way that will tend to deceive or defraud the public; or to claim
30 superiority over neighboring dental practitioners; or to publish
31 reports of cases or certificates of same in any public advertising
32 media; or to advertise as using any anesthetic, drug, formula,
33 medicine, which is either falsely advertised or misnamed; or to employ
34 "capper" or "steerers" to obtain patronage; and any person committing
35 any offense against any of the provisions of this section shall, upon
36 conviction, be subjected to such penalties as are provided in this
37 chapter: PROVIDED, That any person licensed under this chapter may

1 announce credit, terms of credit or installment payments that may be
2 made at periodical intervals to apply on account of any dental service
3 rendered. The (~~dental disciplinary board~~) commission may adopt such
4 rules as are necessary to carry out the intent of this section.

5 **Sec. 224.** RCW 18.32.745 and 1991 c 3 s 73 are each amended to read
6 as follows:

7 No manager, proprietor, partnership, or association owning,
8 operating, or controlling any room, office, or dental parlors, where
9 dental work is done, provided, or contracted for, shall employ or
10 retain any unlicensed person or dentist as an operator; nor shall fail,
11 within ten days after demand made by the secretary of health(~~()~~) or
12 the (~~state board of dental examiners, or the dental disciplinary~~
13 ~~board~~) commission in writing sent by certified mail, addressed to any
14 such manager, proprietor, partnership, or association at (~~said~~) the
15 room, office, or dental parlor, to furnish the secretary of health(~~()~~)
16 or the (~~state board of dental examiners, or the dental disciplinary~~
17 ~~board~~) commission with the names and addresses of all persons
18 practicing or assisting in the practice of dentistry in his or her
19 place of business or under his or her control, together with a sworn
20 statement showing by what license or authority (~~said~~) the persons are
21 practicing dentistry.

22 The sworn statement shall not be used as evidence in any subsequent
23 court proceedings, except in a prosecution for perjury connected with
24 its execution.

25 Any violation of the provisions of this section (~~shall~~
26 ~~constitute~~) is improper, unprofessional, and dishonorable conduct; it
27 (~~shall~~) also (~~constitute~~) is grounds for injunction proceedings as
28 provided by this chapter, and in addition (~~shall constitute~~) is a
29 gross misdemeanor, except that the failure to furnish the information
30 as may be requested in accordance with this section (~~shall~~
31 ~~constitute~~) is a misdemeanor.

32 **Sec. 225.** RCW 18.32.755 and 1986 c 259 s 37 are each amended to
33 read as follows:

34 Any advertisement or announcement for dental services must include
35 for each office location advertised the names of all persons practicing
36 dentistry at that office location.

1 Any violation of the provisions of this section (~~shall~~
2 ~~constitute~~) is improper, unprofessional, and dishonorable conduct; it
3 (~~shall~~) also (~~constitute~~) is grounds for injunction proceedings as
4 provided by RCW 18.130.190(~~(+2)~~) (4), and in addition (~~shall~~
5 ~~constitute~~) is a gross misdemeanor.

6 NEW SECTION. Sec. 226. A new section is added to chapter 18.32
7 RCW to read as follows:

8 The commission is the successor in interest of the board of dental
9 examiners and the dental disciplinary board. All contracts,
10 undertakings, agreements, rules, regulations, and policies continue in
11 full force and effect on the effective date of this act, unless
12 otherwise repealed or rejected by chapter ..., Laws of 1994 (this act)
13 or by the commission.

14 NEW SECTION. Sec. 227. The following acts or parts of acts are
15 each repealed:

16 (1) RCW 18.32.035 and 1989 c 202 s 14, 1984 c 279 s 50, 1979 c 38
17 s 1, 1975 c 49 s 1, 1953 c 93 s 2, 1941 c 92 s 1, & 1935 c 112 s 2;

18 (2) RCW 18.32.037 and 1991 c 3 s 60, 1989 c 202 s 15, & 1935 c 112
19 s 3;

20 (3) RCW 18.32.042 and 1989 c 202 s 28;

21 (4) RCW 18.32.500 and 1989 c 202 s 24, 1986 c 259 s 39, & 1977
22 ex.s. c 5 s 37;

23 (5) RCW 18.32.510 and 1977 ex.s. c 5 s 1;

24 (6) RCW 18.32.520 and 1991 c 3 s 71, 1989 c 202 s 25, 1986 c 259 s
25 40, 1979 c 158 s 36, & 1977 ex.s. c 5 s 2;

26 (7) RCW 18.32.560 and 1984 c 279 s 51 & 1977 ex.s. c 5 s 6;

27 (8) RCW 18.32.570 and 1977 ex.s. c 5 s 7;

28 (9) RCW 18.32.580 and 1977 ex.s. c 5 s 8;

29 (10) RCW 18.32.590 and 1977 ex.s. c 5 s 9;

30 (11) RCW 18.32.600 and 1984 c 287 s 31 & 1977 ex.s. c 5 s 10;

31 (12) RCW 18.32.610 and 1977 ex.s. c 5 s 11; and

32 (13) RCW 18.32.620 and 1984 c 279 s 62 & 1977 ex.s. c 5 s 12.

33 **MEDICAL**

34 NEW SECTION. Sec. 301. A new section is added to chapter 18.71
35 RCW to read as follows:

1 It is the purpose of the medical quality assurance commission to
2 regulate the competency and quality of professional health care
3 providers under its jurisdiction by establishing, monitoring, and
4 enforcing qualifications for licensing, consistent standards of
5 practice, continuing competency mechanisms, and discipline. Rules,
6 policies, and procedures developed by the commission must promote the
7 delivery of quality health care to the residents of the state of
8 Washington.

9 **Sec. 302.** RCW 18.71.010 and 1991 c 3 s 158 are each amended to
10 read as follows:

11 The following terms used in this chapter shall have the meanings
12 set forth in this section unless the context clearly indicates
13 otherwise:

14 (1) (~~("Board" means the board of medical examiners)~~) "Commission"
15 means the Washington state medical quality assurance commission.

16 (2) "Secretary" means the secretary of health.

17 (3) "Resident physician" means an individual who has graduated from
18 a school of medicine which meets the requirements set forth in RCW
19 18.71.055 and is serving a period of postgraduate clinical medical
20 training sponsored by a college or university in this state or by a
21 hospital accredited by this state. For purposes of this chapter, the
22 term shall include individuals designated as intern or medical fellow.

23 (4) "Emergency medical care" or "emergency medical service" has the
24 same meaning as in chapter 18.73 RCW.

25 **Sec. 303.** RCW 18.71.015 and 1991 c 44 s 1 and 1991 c 3 s 159 are
26 each reenacted and amended to read as follows:

27 (~~(There is hereby created a board of medical examiners consisting~~
28 ~~of six individuals licensed to practice medicine in the state of~~
29 ~~Washington, one individual who is licensed as a physician assistant~~
30 ~~under chapter 18.71A RCW, and two individuals who are not physicians,~~
31 ~~to be known as the Washington state board of medical examiners.)) The
32 Washington state medical quality assurance commission is established,
33 consisting of thirteen individuals licensed to practice medicine in the
34 state of Washington under this chapter, two individuals who are
35 licensed as physician assistants under chapter 18.71A RCW, and four
36 individuals who are members of the public. Each congressional district
37 now existing or hereafter created in the state must be represented by~~

1 at least one physician member of the commission. The terms of office
2 of members of the commission are not affected by changes in
3 congressional district boundaries. Public members of the commission
4 may not be a member of any other health care licensing board or
5 commission, or have a fiduciary obligation to a facility rendering
6 health services regulated by the commission, or have a material or
7 financial interest in the rendering of health services regulated by the
8 commission.

9 The ~~((board))~~ members of the commission shall be appointed by the
10 governor. ~~((On expiration of the term of any member, the governor~~
11 ~~shall appoint for a period of five years an individual of similar~~
12 ~~qualifications to take the place of such member.))~~ Members of the
13 initial commission may be appointed to staggered terms of one to four
14 years, and thereafter all terms of appointment shall be for four years.
15 The governor shall consider such physician and physician assistant
16 members who are recommended for appointment by the appropriate
17 professional associations in the state. In appointing the initial
18 members of the commission, it is the intent of the legislature that, to
19 the extent possible, the existing members of the board of medical
20 examiners and medical disciplinary board repealed under section 336,
21 chapter . . . , Laws of 1994 (this act) be appointed to the commission.
22 No member may serve more than two consecutive full terms. Each member
23 shall hold office until ((the expiration of the term for which such
24 member is appointed or until)) a successor ((shall have been)) is
25 appointed ((and shall have qualified)).

26 Each member of the ~~((board shall))~~ commission must be a citizen of
27 the United States, must be an actual resident of this state, and, if a
28 physician, must have been licensed to practice medicine in this state
29 for at least five years.

30 The ~~((board))~~ commission shall meet as soon as practicable after
31 appointment and elect ~~((a chair and, a vice chair from its members))~~
32 officers each year. Meetings shall be held at least four times a year
33 and at such place as the ((board shall)) commission determines and at
34 such other times and places as the ((board)) commission deems
35 necessary. A majority of the ((board)) commission members appointed
36 and serving ((shall)) constitutes a quorum for the transaction of
37 ((board)) commission business.

38 ~~((It shall require))~~ The affirmative vote of a majority of a quorum
39 of the ((board)) commission is required to carry any motion or

1 resolution, to adopt any rule, or to pass any measure. The commission
2 may appoint panels consisting of at least three members. A quorum for
3 the transaction of any business by a panel is a minimum of three
4 members. A majority vote of ((the members appointed to a panel of the
5 board shall constitute)) a quorum ((for)) of the panel is required to
6 transact business delegated to it by the ((board)) commission.

7 Each member of the ((board)) commission shall be compensated in
8 accordance with RCW 43.03.240 and in addition thereto shall be
9 reimbursed for travel expenses incurred in carrying out the duties of
10 the ((board)) commission in accordance with RCW 43.03.050 and
11 43.03.060. Any such expenses shall be paid from funds appropriated to
12 the department of health.

13 ~~((Any member of the board may be removed by the governor for))~~
14 Whenever the governor is satisfied that a member of a commission has
15 been guilty of neglect of duty, misconduct, or malfeasance or
16 misfeasance in office, the governor shall file with the secretary of
17 state a statement of the causes for and the order of removal from
18 office, and the secretary shall forthwith send a certified copy of the
19 statement of causes and order of removal to the last known post office
20 address of the member.

21 Vacancies in the membership of the ((board)) commission shall be
22 filled for the unexpired term by appointment by the governor.

23 The members of the commission are immune from suit in an action,
24 civil or criminal, based on its disciplinary proceedings or other
25 official acts performed in good faith as members of the commission.

26 Whenever the workload of the commission requires, the commission
27 may request that the secretary appoint pro tempore members of the
28 commission. When serving, pro tempore members of the commission have
29 all of the powers, duties, and immunities, and are entitled to all of
30 the emoluments, including travel expenses, of regularly appointed
31 members of the commission.

32 **Sec. 304.** RCW 18.71.017 and 1961 c 284 s 11 are each amended to
33 read as follows:

34 The board may ((make)) adopt such rules ((and regulations)) as are
35 not inconsistent with the laws of this state as may be determined
36 necessary or proper to carry out the purposes of this chapter. The
37 commission is the successor in interest of the board of medical
38 examiners and the medical disciplinary board. All contracts,

1 undertakings, agreements, rules, regulations, and policies continue in
2 full force and effect on the effective date of this act, unless
3 otherwise repealed or rejected by this chapter or by the commission.

4 **Sec. 305.** RCW 18.71.019 and 1987 c 150 s 45 are each amended to
5 read as follows:

6 The Uniform Disciplinary Act, chapter 18.130 RCW, governs
7 unlicensed practice and the issuance and denial of licenses and
8 discipline of licensees under this chapter.

9 **Sec. 306.** RCW 18.71.030 and 1990 c 196 s 12 and 1990 c 33 s 552
10 are each reenacted and amended to read as follows:

11 Nothing in this chapter shall be construed to apply to or interfere
12 in any way with the practice of religion or any kind of treatment by
13 prayer; nor shall anything in this chapter be construed to prohibit:

14 (1) The furnishing of medical assistance in cases of emergency
15 requiring immediate attention;

16 (2) The domestic administration of family remedies;

17 (3) The administration of oral medication of any nature to students
18 by public school district employees or private elementary or secondary
19 school employees as provided for in chapter 28A.210 RCW;

20 (4) The practice of dentistry, osteopathy, osteopathy and surgery,
21 nursing, chiropractic, (~~podiatry~~) podiatric medicine and surgery,
22 optometry, naturopathy, or any other healing art licensed under the
23 methods or means permitted by such license;

24 (5) The practice of medicine in this state by any commissioned
25 medical officer serving in the armed forces of the United States or
26 public health service or any medical officer on duty with the United
27 States veterans administration while such medical officer is engaged in
28 the performance of the duties prescribed for him or her by the laws and
29 regulations of the United States;

30 (6) The practice of medicine by any practitioner licensed by
31 another state or territory in which he or she resides, provided that
32 such practitioner shall not open an office or appoint a place of
33 meeting patients or receiving calls within this state;

34 (7) The practice of medicine by a person who is a regular student
35 in a school of medicine approved and accredited by the (~~board~~)
36 commission, however, the performance of such services be only pursuant
37 to a regular course of instruction or assignments from his or her

1 instructor, or that such services are performed only under the
2 supervision and control of a person licensed pursuant to this chapter;

3 (8) The practice of medicine by a person serving a period of
4 postgraduate medical training in a program of clinical medical training
5 sponsored by a college or university in this state or by a hospital
6 accredited in this state, however, the performance of such services
7 shall be only pursuant to his or her duties as a trainee;

8 (9) The practice of medicine by a person who is regularly enrolled
9 in a physician assistant program approved by the (~~board~~) commission,
10 however, the performance of such services (~~shall~~) shall be only
11 pursuant to a regular course of instruction in said program and such
12 services are performed only under the supervision and control of a
13 person licensed pursuant to this chapter;

14 (10) The practice of medicine by a licensed physician assistant
15 which practice is performed under the supervision and control of a
16 physician licensed pursuant to this chapter;

17 (11) The practice of medicine, in any part of this state which
18 shares a common border with Canada and which is surrounded on three
19 sides by water, by a physician licensed to practice medicine and
20 surgery in Canada or any province or territory thereof;

21 (12) The administration of nondental anesthesia by a dentist who
22 has completed a residency in anesthesiology at a school of medicine
23 approved by the (~~board of medical examiners~~) commission, however, a
24 dentist allowed to administer nondental anesthesia shall do so only
25 under authorization of the patient's attending surgeon, obstetrician,
26 or psychiatrist, and the (~~medical disciplinary board shall have~~)
27 commission has jurisdiction to discipline a dentist practicing under
28 this exemption and enjoin or suspend such dentist from the practice of
29 nondental anesthesia according to (~~the provisions of chapter 18.72~~
30 RCW) this chapter and chapter 18.130 RCW;

31 (13) Emergency lifesaving service rendered by a physician's trained
32 mobile intravenous therapy technician, by a physician's trained mobile
33 airway management technician, or by a physician's trained mobile
34 intensive care paramedic, as defined in RCW 18.71.200, if the emergency
35 lifesaving service is rendered under the responsible supervision and
36 control of a licensed physician;

37 (14) The provision of clean, intermittent bladder catheterization
38 for students by public school district employees or private school

1 employees as provided for in RCW ((18.88.295)) 18.---.--- (section 429
2 of this act) and 28A.210.280.

3 **Sec. 307.** RCW 18.71.050 and 1991 c 3 s 161 are each amended to
4 read as follows:

5 (1) Each applicant who has graduated from a school of medicine
6 located in any state, territory, or possession of the United States,
7 the District of Columbia, or the Dominion of Canada, shall file an
8 application for licensure with the ((board)) commission on a form
9 prepared by the secretary with the approval of the ((board))
10 commission. Each applicant shall furnish proof satisfactory to the
11 ((board)) commission of the following:

12 (a) That the applicant has attended and graduated from a school of
13 medicine approved by the ((board)) commission;

14 (b) That the applicant has completed two years of postgraduate
15 medical training in a program acceptable to the ((board)) commission,
16 provided that applicants graduating before July 28, 1985, may complete
17 only one year of postgraduate medical training;

18 (c) That the applicant is of good moral character; and

19 (d) That the applicant is physically and mentally capable of safely
20 carrying on the practice of medicine. The ((board)) commission may
21 require any applicant to submit to such examination or examinations as
22 it deems necessary to determine an applicant's physical and/or mental
23 capability to safely practice medicine.

24 (2) Nothing in this section shall be construed as prohibiting the
25 ((board)) commission from requiring such additional information from
26 applicants as it deems necessary. The issuance and denial of licenses
27 are subject to chapter 18.130 RCW, the Uniform Disciplinary Act.

28 **Sec. 308.** RCW 18.71.051 and 1991 c 3 s 162 are each amended to
29 read as follows:

30 Applicants for licensure to practice medicine who have graduated
31 from a school of medicine located outside of the states, territories,
32 and possessions of the United States, the District of Columbia, or the
33 Dominion of Canada, shall file an application for licensure with the
34 ((board)) commission on a form prepared by the secretary with the
35 approval of the ((board)) commission. Each applicant shall furnish
36 proof satisfactory to the ((board)) commission of the following:

1 (1) That he or she has completed in a school of medicine a resident
2 course of professional instruction equivalent to that required in this
3 chapter for applicants generally;

4 (2) That he or she meets all the requirements which must be met by
5 graduates of the United States and Canadian school of medicine except
6 that he or she need not have graduated from a school of medicine
7 approved by the ((~~board~~)) commission;

8 (3) That he or she has satisfactorily passed the examination given
9 by the educational council for foreign medical graduates or has met the
10 requirements in lieu thereof as set forth in rules ((~~and regulations~~))
11 adopted by the ((~~board~~)) commission;

12 (4) That he or she has the ability to read, write, speak,
13 understand, and be understood in the English language.

14 **Sec. 309.** RCW 18.71.055 and 1975 1st ex.s. c 171 s 8 are each
15 amended to read as follows:

16 The ((~~board~~)) commission may approve any school of medicine which
17 is located in any state, territory, or possession of the United States,
18 the District of Columbia, or in the Dominion of Canada, provided that
19 it:

20 (1) Requires collegiate instruction which includes courses deemed
21 by the ((~~board~~)) commission to be prerequisites to medical education;

22 (2) Provides adequate instruction in the following subjects:
23 Anatomy, biochemistry, microbiology and immunology, pathology,
24 pharmacology, physiology, anaesthesiology, dermatology, gynecology,
25 internal medicine, neurology, obstetrics, ((~~ophthalmology~~))
26 ophthalmology, orthopedic surgery, otolaryngology, pediatrics, physical
27 medicine and rehabilitation, preventive medicine and public health,
28 psychiatry, radiology, surgery, and urology, and such other subjects
29 determined by the ((~~board~~)) commission;

30 (3) Provides clinical instruction in hospital wards and out-patient
31 clinics under guidance.

32 Approval may be withdrawn by the ((~~board~~)) commission at any time
33 a medical school ceases to comply with one or more of the requirements
34 of this section.

35 (4) Nothing in this section shall be construed to authorize the
36 ((~~board~~)) commission to approve a school of osteopathy, osteopathy and
37 surgery, or osteopathic medicine, for purposes of qualifying an

1 applicant to be licensed under this chapter by direct licensure,
2 reciprocity, or otherwise.

3 **Sec. 310.** RCW 18.71.060 and 1975 1st ex.s. c 171 s 9 are each
4 amended to read as follows:

5 (~~Said board~~) The commission shall keep an official record of all
6 its proceedings, a part of which record shall consist of a register of
7 all applicants for licensure under this chapter, with the result of
8 each application. (~~Said~~) The record shall be evidence of all the
9 proceedings of (~~said board which~~) the commission that are set forth
10 (~~therein~~) in it.

11 **Sec. 311.** RCW 18.71.070 and 1985 c 322 s 3 are each amended to
12 read as follows:

13 With the exception of those applicants granted licensure through
14 the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure
15 must successfully complete an examination administered by the (~~board~~)
16 commission to determine their professional qualifications. The
17 (~~board~~) commission shall prepare and give, or approve the preparation
18 and giving of, an examination which shall cover those general subjects
19 and topics, a knowledge of which is commonly and generally required of
20 candidates for the degree of doctor of medicine conferred by approved
21 colleges or schools of medicine in the United States. Notwithstanding
22 any other provision of law, the (~~board shall have~~) commission has the
23 sole responsibility for determining the proficiency of applicants under
24 this chapter, and, in so doing, may waive any prerequisite to licensure
25 not set forth in this chapter.

26 The (~~board~~) commission may by rule establish the passing grade
27 for the examination.

28 Examination results shall be part of the records of the (~~board~~)
29 commission and shall be permanently kept with the applicant's file.

30 **Sec. 312.** RCW 18.71.080 and 1991 c 195 s 1 and 1991 c 3 s 163 are
31 each reenacted and amended to read as follows:

32 Every person licensed to practice medicine in this state shall
33 register with the secretary of health annually, and pay an annual
34 renewal registration fee determined by the secretary as provided in RCW
35 43.70.250. The (~~board~~) commission may establish rules governing
36 mandatory continuing education requirements which shall be met by

1 physicians applying for renewal of licenses. The rules ((and
2 regulations)) shall provide that mandatory continuing education
3 requirements may be met in part by physicians showing evidence of the
4 completion of approved activities relating to professional liability
5 risk management. Any failure to register and pay the annual renewal
6 registration fee shall render the license invalid, but such license
7 shall be reinstated upon written application therefor to the secretary,
8 and payment to the state of a penalty fee determined by the secretary
9 as provided in RCW 43.70.250, together with all delinquent annual
10 license renewal fees: PROVIDED, HOWEVER, That any person who fails to
11 renew the license for a period of three years, shall in no event be
12 entitled to renew the license under this section. Such a person in
13 order to obtain a license to practice medicine in this state, shall
14 file an original application as provided for in this chapter, along
15 with the requisite fee therefor. The ((board)) commission, in its sole
16 discretion, may permit such applicant to be licensed without
17 examination if it is satisfied that such applicant meets all the
18 requirements for licensure in this state, and is competent to engage in
19 the practice of medicine.

20 **Sec. 313.** RCW 18.71.085 and 1991 c 44 s 2 are each amended to read
21 as follows:

22 The ((board)) commission may adopt rules pursuant to this section
23 authorizing an inactive license status.

24 (1) An individual licensed pursuant to chapter 18.71 RCW may place
25 his or her license on inactive status. The holder of an inactive
26 license shall not practice medicine and surgery in this state without
27 first activating the license.

28 (2) The inactive renewal fee shall be established by the secretary
29 pursuant to RCW 43.70.250. Failure to renew an inactive license shall
30 result in cancellation in the same manner as an active license.

31 (3) An inactive license may be placed in an active status upon
32 compliance with rules established by the ((board)) commission.

33 (4) Provisions relating to disciplinary action against a person
34 with a license shall be applicable to a person with an inactive
35 license, except that when disciplinary proceedings against a person
36 with an inactive license have been initiated, the license shall remain
37 inactive until the proceedings have been completed.

1 **Sec. 314.** RCW 18.71.090 and 1985 c 322 s 5 are each amended to
2 read as follows:

3 Any applicant who meets the requirements of RCW 18.71.050 and has
4 been licensed under the laws of another state, territory, or possession
5 of the United States, or of any province of Canada, or an applicant who
6 has satisfactorily passed examinations given by the national board of
7 medical examiners may, in the discretion of the ((board)) commission,
8 be granted a license without examination on the payment of the fees
9 required by this chapter: PROVIDED, That the applicant must file with
10 the ((board)) commission a copy of the license certified by the proper
11 authorities of the issuing state to be a full, true copy thereof, and
12 must show that the standards, eligibility requirements, and
13 examinations of that state are at least equal in all respects to those
14 of this state.

15 **Sec. 315.** RCW 18.71.095 and 1991 c 3 s 164 are each amended to
16 read as follows:

17 The ((board)) commission may, without examination, issue a limited
18 license to persons who possess the qualifications set forth herein:

19 (1) The ((board)) commission may, upon the written request of the
20 secretary of the department of social and health services or the
21 secretary of corrections, issue a limited license to practice medicine
22 in this state to persons who have been accepted for employment by the
23 department of social and health services or the department of
24 corrections as physicians; who are licensed to practice medicine in
25 another state of the United States or in the country of Canada or any
26 province or territory thereof; and who meet all of the qualifications
27 for licensure set forth in RCW 18.71.050.

28 Such license shall permit the holder thereof to practice medicine
29 only in connection with patients, residents, or inmates of the state
30 institutions under the control and supervision of the secretary of the
31 department of social and health services or the department of
32 corrections.

33 (2) The ((board)) commission may issue a limited license to
34 practice medicine in this state to persons who have been accepted for
35 employment by a county or city health department as physicians; who are
36 licensed to practice medicine in another state of the United States or
37 in the country of Canada or any province or territory thereof; and who

1 meet all of the qualifications for licensure set forth in RCW
2 18.71.050.

3 Such license shall permit the holder thereof to practice medicine
4 only in connection with his or her duties in employment with the city
5 or county health department.

6 (3) Upon receipt of a completed application showing that the
7 applicant meets all of the requirements for licensure set forth in RCW
8 18.71.050 except for completion of two years of postgraduate medical
9 training, and that the applicant has been appointed as a resident
10 physician in a program of postgraduate clinical training in this state
11 approved by the ((~~board~~)) commission, the ((~~board~~)) commission may
12 issue a limited license to a resident physician. Such license shall
13 permit the resident physician to practice medicine only in connection
14 with his or her duties as a resident physician and shall not authorize
15 the physician to engage in any other form of practice. Each resident
16 physician shall practice medicine only under the supervision and
17 control of a physician licensed in this state, but such supervision and
18 control shall not be construed to necessarily require the personal
19 presence of the supervising physician at the place where services are
20 rendered.

21 (4)(a) Upon nomination by the dean of the school of medicine at the
22 University of Washington or the chief executive officer of a hospital
23 or other appropriate health care facility licensed in the state of
24 Washington, the ((~~board~~)) commission may issue a limited license to a
25 physician applicant invited to serve as a teaching-research member of
26 the institution's instructional staff if the sponsoring institution and
27 the applicant give evidence that he or she has graduated from a
28 recognized medical school and has been licensed or otherwise privileged
29 to practice medicine at his or her location of origin. Such license
30 shall permit the recipient to practice medicine only within the
31 confines of the instructional program specified in the application and
32 shall terminate whenever the holder ceases to be involved in that
33 program, or at the end of one year, whichever is earlier. Upon request
34 of the applicant and the institutional authority, the license may be
35 renewed for no more than a total of two years.

36 (b) Upon nomination by the dean of the school of medicine of the
37 University of Washington or the chief executive officer of any hospital
38 or appropriate health care facility licensed in the state of
39 Washington, the ((~~board~~)) commission may issue a limited license to an

1 applicant selected by the sponsoring institution to be enrolled in one
2 of its designated departmental or divisional fellowship programs
3 provided that the applicant shall have graduated from a recognized
4 medical school and has been granted a license or other appropriate
5 certificate to practice medicine in the location of the applicant's
6 origin. Such license shall permit the holder only to practice medicine
7 within the confines of the fellowship program to which he or she has
8 been appointed and, upon the request of the applicant and the
9 sponsoring institution, the license may be renewed by the (~~board~~)
10 commission for no more than a total of two years.

11 All persons licensed under this section shall be subject to the
12 jurisdiction of the (~~medical disciplinary board~~) commission to the
13 same extent as other members of the medical profession, in accordance
14 with this chapter and chapter(~~s 18.72 and~~) 18.130 RCW.

15 Persons applying for licensure pursuant to this section shall pay
16 an application fee determined by the secretary as provided in RCW
17 43.70.250 and, in the event the license applied for is issued, a
18 license fee at the rate provided for renewals of licenses generally.
19 Licenses issued hereunder may be renewed annually pursuant to the
20 provisions of RCW 18.71.080. Any person who obtains a limited license
21 pursuant to this section may, without an additional application fee,
22 apply for licensure under this chapter, but shall submit a new
23 application form and comply with all other licensing requirements of
24 this chapter.

25 **Sec. 316.** RCW 18.71.205 and 1992 c 128 s 1 are each amended to
26 read as follows:

27 (1) The secretary of the department of health, in conjunction with
28 the advice and assistance of the emergency medical services licensing
29 and certification advisory committee as prescribed in RCW 18.73.050,
30 and the (~~board of medical examiners~~) commission, shall prescribe:

31 (a) Minimum standards and performance requirements for the
32 certification and recertification of physician's trained intravenous
33 therapy technicians, airway management technicians, and mobile
34 intensive care paramedics; and

35 (b) Procedures for certification, recertification, and
36 decertification of physician's trained intravenous therapy technicians,
37 airway management technicians, and mobile intensive care paramedics.

38 (2) Initial certification shall be for a period of three years.

1 (3) Recertification shall be granted upon proof of continuing
2 satisfactory performance and education, and shall be for a period of
3 three years.

4 (4) As used in chapters 18.71 and 18.73 RCW, "approved medical
5 program director" means a person who:

6 (a) Is licensed to practice medicine and surgery pursuant to
7 chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57
8 RCW; and

9 (b) Is qualified and knowledgeable in the administration and
10 management of emergency care and services; and

11 (c) Is so certified by the department of health for a county, group
12 of counties, or cities with populations over four hundred thousand in
13 coordination with the recommendations of the local medical community
14 and local emergency medical services and trauma care council.

15 (5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs
16 uncertified practice, the issuance and denial of certificates, and the
17 disciplining of certificate holders under this section. The secretary
18 shall be the disciplining authority under this section. Disciplinary
19 action shall be initiated against a person credentialed under this
20 chapter in a manner consistent with the responsibilities and duties of
21 the medical program director under whom such person is responsible.

22 **Sec. 317.** RCW 18.71.230 and 1986 c 259 s 112 are each amended to
23 read as follows:

24 A right to practice medicine and surgery by an individual in this
25 state pursuant to RCW 18.71.030 (5) through (12) shall be subject to
26 discipline by order of the (~~board~~) commission upon a finding by the
27 (~~board~~) commission of an act of unprofessional conduct as defined in
28 RCW 18.130.180 or that the individual is unable to practice with
29 reasonable skill or safety due to a mental or physical condition as
30 described in RCW 18.130.170. Such physician shall have the same rights
31 of notice, hearing, and judicial review as provided licensed physicians
32 generally (~~pursuant to chapters 18.72 and~~) under this chapter and
33 chapter 18.130 RCW.

34 **Sec. 318.** RCW 18.71A.010 and 1990 c 196 s 1 are each amended to
35 read as follows:

36 The definitions set forth in this section apply throughout this
37 chapter.

1 (1) "Physician assistant" means a person who is licensed by the
2 (~~board~~) commission to practice medicine to a limited extent only
3 under the supervision of a physician as defined in chapter 18.71 RCW
4 and who is academically and clinically prepared to provide health care
5 services and perform diagnostic, therapeutic, preventative, and health
6 maintenance services.

7 (2) "~~(Board)~~ Commission" means the (~~board of medical examiners~~)
8 medical quality assurance commission.

9 (3) "Practice medicine" (~~shall have~~) has the meaning defined in
10 RCW 18.71.011.

11 (4) "Secretary" means the secretary of health or the secretary's
12 designee.

13 (5) "Department" means the department of health.

14 **Sec. 319.** RCW 18.71A.020 and 1993 c 28 s 5 are each amended to
15 read as follows:

16 (1) The (~~board~~) commission shall adopt rules fixing the
17 qualifications and the educational and training requirements for
18 licensure as a physician assistant or for those enrolled in any
19 physician assistant training program. The requirements shall include
20 completion of an accredited physician assistant training program
21 approved by the (~~board~~) commission and eligibility to take an
22 examination approved by the (~~board, provided such~~) commission, if the
23 examination tests subjects substantially equivalent to the curriculum
24 of an accredited physician assistant training program. Physician
25 assistants licensed by the board of medical examiners as of June 7,
26 1990, shall continue to be licensed.

27 (2)(a) The (~~board~~) commission shall adopt rules governing the
28 extent to which:

29 (i) Physician assistant students may practice medicine during
30 training; and

31 (ii) Physician assistants may practice after successful completion
32 of a physician assistant training course.

33 (b) Such rules shall provide:

34 (i) That the practice of a physician assistant shall be limited to
35 the performance of those services for which he or she is trained; and

36 (ii) That each physician assistant shall practice medicine only
37 under the supervision and control of a physician licensed in this
38 state, but such supervision and control shall not be construed to

1 necessarily require the personal presence of the supervising physician
2 or physicians at the place where services are rendered.

3 (3) Applicants for licensure shall file an application with the
4 ~~((board))~~ commission on a form prepared by the secretary with the
5 approval of the ~~((board))~~ commission, detailing the education,
6 training, and experience of the physician assistant and such other
7 information as the ~~((board))~~ commission may require. The application
8 shall be accompanied by a fee determined by the secretary as provided
9 in RCW 43.70.250. Each applicant shall furnish proof satisfactory to
10 the ~~((board))~~ commission of the following:

11 (a) That the applicant has completed an accredited physician
12 assistant program approved by the ~~((board))~~ commission and is eligible
13 to take the examination approved by the ~~((board))~~ commission;

14 (b) That the applicant is of good moral character; and

15 (c) That the applicant is physically and mentally capable of
16 practicing medicine as a physician assistant with reasonable skill and
17 safety. The ~~((board))~~ commission may require an applicant to submit to
18 such examination or examinations as it deems necessary to determine an
19 applicant's physical or mental capability, or both, to safely practice
20 as a physician assistant.

21 (4) The ~~((board))~~ commission may approve, deny, or take other
22 disciplinary action upon the application for license as provided in the
23 Uniform Disciplinary Act, chapter 18.130 RCW. The license shall be
24 renewed on a periodic basis as determined by the secretary under RCW
25 43.70.280, upon payment of a fee determined by the secretary as
26 provided in RCW 43.70.250, and submission of a completed renewal
27 application, in addition to any late renewal penalty fees as determined
28 by the secretary as provided in RCW 43.70.250. The ~~((board))~~
29 commission may authorize the use of alternative supervisors who are
30 licensed either under chapter 18.57 or 18.71 RCW.

31 **Sec. 320.** RCW 18.71A.030 and 1993 c 28 s 6 are each amended to
32 read as follows:

33 A physician assistant ~~((as defined in this chapter))~~ may practice
34 medicine in this state only with the approval of the practice
35 arrangement plan by the ~~((board))~~ commission and only to the extent
36 permitted by the ~~((board))~~ commission. A physician assistant who has
37 received a license but who has not received ~~((board))~~ commission
38 approval of the practice arrangement plan under RCW 18.71A.040 may not

1 practice. A physician assistant shall be subject to discipline under
2 chapter 18.130 RCW.

3 **Sec. 321.** RCW 18.71A.040 and 1993 c 28 s 7 are each amended to
4 read as follows:

5 (1) No physician assistant practicing in this state shall be
6 employed or supervised by a physician or physician group without the
7 approval of the ~~((board))~~ commission.

8 (2) Prior to commencing practice, a physician assistant licensed in
9 this state shall apply to the ~~((board))~~ commission for permission to be
10 employed or supervised by a physician or physician group. The practice
11 arrangement plan shall be jointly submitted by the physician or
12 physician group and physician assistant. The secretary may charge a
13 fee as provided in RCW 43.70.250 to recover the cost for the plan
14 review. The practice arrangement plan shall delineate the manner and
15 extent to which the physician assistant would practice and be
16 supervised. Whenever a physician assistant is practicing in a manner
17 inconsistent with the approved practice arrangement plan, the medical
18 disciplinary board may take disciplinary action under chapter 18.130
19 RCW.

20 **Sec. 322.** RCW 18.71A.045 and 1988 c 113 s 2 are each amended to
21 read as follows:

22 Foreign medical school graduates shall not be eligible for
23 ~~((registration))~~ licensing as physician assistants after July 1, 1989.
24 ~~((Those applying on or before that date shall remain eligible to
25 register as a physician assistant after July 1, 1989: PROVIDED, That
26 the graduate does not violate chapter 18.130 RCW or the rules of the
27 board. The board shall adopt rules regarding applications for
28 registration. The rules shall include board approval of training as
29 required in RCW 18.71.051(1) and receipt of original translated
30 transcripts directly from the medical school.))~~

31 **Sec. 323.** RCW 18.71A.050 and 1993 c 28 s 8 are each amended to
32 read as follows:

33 No physician who supervises a licensed physician assistant in
34 accordance with and within the terms of any permission granted by the
35 ~~((medical examining board shall be))~~ commission is considered as aiding
36 and abetting an unlicensed person to practice medicine. The

1 supervising physician and physician assistant shall retain professional
2 and personal responsibility for any act which constitutes the practice
3 of medicine as defined in RCW 18.71.011 when performed by the physician
4 assistant.

5 **Sec. 324.** RCW 18.71A.060 and 1990 c 196 s 6 are each amended to
6 read as follows:

7 No health care services may be performed under this chapter in any
8 of the following areas:

9 (1) The measurement of the powers or range of human vision, or the
10 determination of the accommodation and refractive state of the human
11 eye or the scope of its functions in general, or the fitting or
12 adaptation of lenses or frames for the aid thereof.

13 (2) The prescribing or directing the use of, or using, any optical
14 device in connection with ocular exercises, visual training, vision
15 training, or orthoptics.

16 (3) The prescribing of contact lenses for, or the fitting or
17 adaptation of contact lenses to, the human eye.

18 (4) Nothing in this section shall preclude the performance of
19 routine visual screening.

20 (5) The practice of dentistry or dental hygiene as defined in
21 chapters 18.32 and 18.29 RCW respectively. The exemptions set forth in
22 RCW 18.32.030(~~(, paragraphs)~~) (1) and (8), shall not apply to a
23 physician assistant.

24 (6) The practice of chiropractic as defined in chapter 18.25 RCW
25 including the adjustment or manipulation of the articulations of the
26 spine.

27 (7) The practice of (~~podiatry~~) podiatric medicine and surgery as
28 defined in chapter 18.22 RCW.

29 **Sec. 325.** RCW 18.71A.085 and 1990 c 196 s 10 are each amended to
30 read as follows:

31 Any physician assistant acupuncturist currently licensed by the
32 (~~board~~) commission may continue to perform acupuncture under the
33 physician assistant license as long as he or she maintains licensure as
34 a physician assistant.

35 **Sec. 326.** RCW 18.72.155 and 1991 c 3 s 168 are each amended to
36 read as follows:

1 The secretary of the department of health shall appoint, from a
2 list of three names supplied by the (~~board~~) commission, an executive
3 (~~secretary~~) director who shall act to carry out the provisions of
4 this chapter. The secretary shall also employ such additional staff
5 including administrative assistants, investigators, and clerical staff
6 as are required to enable the (~~board~~) commission to accomplish its
7 duties and responsibilities. The executive (~~secretary shall be~~)
8 director is exempt from the provisions of the civil service law,
9 chapter 41.06 RCW, as now or hereafter amended.

10 **Sec. 327.** RCW 18.72.165 and 1986 c 300 s 5 are each amended to
11 read as follows:

12 (1) A licensed health care professional licensed under this chapter
13 (~~18.71 RCW~~) shall report to the (~~medical disciplinary board~~)
14 commission when he or she has personal knowledge that a practicing
15 physician has either committed an act or acts which may constitute
16 statutorily defined unprofessional conduct or that a practicing
17 physician may be unable to practice medicine with reasonable skill and
18 safety to patients by reason of illness, drunkenness, excessive use of
19 drugs, narcotics, chemicals, or any other type of material, or as a
20 result of any mental or physical conditions.

21 (2) Reporting under this section is not required by:

22 (a) An appropriately appointed peer review committee member of a
23 licensed hospital or by an appropriately designated professional review
24 committee member of a county or state medical society during the
25 investigative phase of their respective operations if these
26 investigations are completed in a timely manner; or

27 (b) A treating licensed health care professional of a physician
28 currently involved in a treatment program as long as the physician
29 patient actively participates in the treatment program and the
30 physician patient's impairment does not constitute a clear and present
31 danger to the public health, safety, or welfare.

32 (3) The (~~medical disciplinary board~~) commission may impose
33 disciplinary sanctions, including license suspension or revocation, on
34 any health care professional subject to the jurisdiction of the
35 (~~board~~) commission who has failed to comply with this section.

36 **Sec. 328.** RCW 18.72.265 and 1986 c 259 s 117 are each amended to
37 read as follows:

1 (1) The contents of any report file under RCW 18.130.070 shall be
2 confidential and exempt from public disclosure pursuant to chapter
3 42.17 RCW, except that it may be reviewed (a) by the licensee involved
4 or his or her counsel or authorized representative who may submit any
5 additional exculpatory or explanatory statements or other information,
6 which statements or other information shall be included in the file, or
7 (b) by a representative of the ((~~medical-disciplinary-board~~))
8 commission, or investigator thereof, who has been assigned to review
9 the activities of a licensed physician.

10 Upon a determination that a report is without merit, the
11 ((~~board's~~)) commission's records may be purged of information relating
12 to the report.

13 (2) Every individual, medical association, medical society,
14 hospital, medical service bureau, health insurance carrier or agent,
15 professional liability insurance carrier, professional standards review
16 organization, and agency of the federal, state, or local government
17 shall be immune from civil liability, whether direct or derivative, for
18 providing information to the ((~~board subsequent to~~)) commission under
19 RCW 18.130.070, or for which an individual health care provider has
20 immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260((~~-~~
21 ~~as now or hereafter amended~~)).

22 **Sec. 329.** RCW 18.72.301 and 1989 c 119 s 1 are each amended to
23 read as follows:

24 Unless the context clearly requires otherwise, the definitions in
25 this section apply throughout RCW 18.72.306 through 18.72.321 (as
26 recodified by this act).

27 (1) ((~~"Board" means the medical disciplinary board of this state.~~
28 ~~(2)~~)) "Committee" means a nonprofit corporation formed by
29 physicians who have expertise in the areas of alcoholism, drug abuse,
30 or mental illness and who broadly represent the physicians of the state
31 and that has been designated to perform any or all of the activities
32 set forth in RCW 18.72.306(1) (as recodified by this act) pursuant to
33 rules adopted by the ((~~board~~)) commission under chapter 34.05 RCW.

34 ((~~(3)~~)) (2) "Impaired" or "impairment" means the presence of the
35 diseases of alcoholism, drug abuse, mental illness, or other
36 debilitating conditions.

37 ((~~(4)~~)) (3) "Impaired physician program" means the program for the
38 prevention, detection, intervention, and monitoring of impaired

1 physicians established by the (~~board~~) commission pursuant to RCW
2 18.72.306(1) (as recodified by this act).

3 (~~(5)~~) (4) "Physician" means a person licensed under this chapter
4 (~~18.71 RCW~~).

5 (~~(6)~~) (5) "Treatment program" means a plan of care and
6 rehabilitation services provided by those organizations or persons
7 authorized to provide such services to be approved by the (~~board~~)
8 commission for impaired physicians taking part in the impaired
9 physician program created by RCW 18.72.306 (as recodified by this act).

10 **Sec. 330.** RCW 18.72.306 and 1991 c 3 s 169 are each amended to
11 read as follows:

12 (1) The (~~board~~) commission shall enter into a contract with the
13 committee to implement an impaired physician program. The impaired
14 physician program may include any or all of the following:

15 (a) Contracting with providers of treatment programs;

16 (b) Receiving and evaluating reports of suspected impairment from
17 any source;

18 (c) Intervening in cases of verified impairment;

19 (d) Referring impaired physicians to treatment programs;

20 (e) Monitoring the treatment and rehabilitation of impaired
21 physicians including those ordered by the (~~board~~) commission;

22 (f) Providing post-treatment monitoring and support of
23 rehabilitative impaired physicians;

24 (g) Performing such other activities as agreed upon by the
25 (~~board~~) commission and the committee; and

26 (h) Providing prevention and education services.

27 (2) A contract entered into under subsection (1) of this section
28 shall be financed by a surcharge of up to twenty-five dollars on each
29 license renewal or issuance of a new license to be collected by the
30 department of health from every physician and surgeon licensed under
31 this chapter (~~18.71 RCW~~) in addition to other license fees and the
32 medical discipline assessment fee established under RCW 18.72.380.
33 These moneys shall be placed in the health professions account to be
34 used solely for the implementation of the impaired physician program.

35 **Sec. 331.** RCW 18.72.311 and 1987 c 416 s 3 are each amended to
36 read as follows:

1 The committee shall develop procedures in consultation with the
2 ((~~board~~)) commission for:

3 (1) Periodic reporting of statistical information regarding
4 impaired physician activity;

5 (2) Periodic disclosure and joint review of such information as the
6 ((~~board~~)) commission may deem appropriate regarding reports received,
7 contacts or investigations made, and the disposition of each report:
8 PROVIDED, That the committee shall not disclose any personally
9 identifiable information except as provided in subsections (3) and (4)
10 of this section;

11 (3) Immediate reporting to the ((~~board~~)) commission of the name and
12 results of any contact or investigation regarding any impaired
13 physician who is believed to constitute an imminent danger to the
14 public;

15 (4) Reporting to the ((~~board~~)) commission, in a timely fashion, any
16 impaired physician who refuses to cooperate with the committee, refuses
17 to submit to treatment, or whose impairment is not substantially
18 alleviated through treatment, and who, in the opinion of the committee,
19 is unable to practice medicine with reasonable skill and safety.
20 However, impairment, in and of itself, shall not give rise to a
21 presumption of the inability to practice medicine with reasonable skill
22 and safety;

23 (5) Informing each participant of the impaired physician program of
24 the program procedures, the responsibilities of program participants,
25 and the possible consequences of noncompliance with the program.

26 **Sec. 332.** RCW 18.72.316 and 1987 c 416 s 4 are each amended to
27 read as follows:

28 If the ((~~board~~)) commission has reasonable cause to believe that a
29 physician is impaired, the ((~~board~~)) commission shall cause an
30 evaluation of such physician to be conducted by the committee or the
31 committee's designee or the ((~~board's~~)) commission's designee for the
32 purpose of determining if there is an impairment. The committee or
33 appropriate designee shall report the findings of its evaluation to the
34 ((~~board~~)) commission.

35 **Sec. 333.** RCW 18.72.340 and 1993 c 367 s 17 are each amended to
36 read as follows:

1 (1) Every institution or organization providing professional
2 liability insurance to physicians shall send a complete report to the
3 (~~medical disciplinary board~~) commission of all malpractice
4 settlements, awards, or payments in excess of twenty thousand dollars
5 as a result of a claim or action for damages alleged to have been
6 caused by an insured physician's incompetency or negligence in the
7 practice of medicine. Such institution or organization shall also
8 report the award, settlement, or payment of three or more claims during
9 a five-year time period as the result of the alleged physician's
10 incompetence or negligence in the practice of medicine regardless of
11 the dollar amount of the award or payment.

12 (2) Reports required by this section shall be made within sixty
13 days of the date of the settlement or verdict. Failure to comply with
14 this section is punishable by a civil penalty not to exceed two hundred
15 fifty dollars.

16 **Sec. 334.** RCW 18.72.345 and 1991 c 215 s 2 are each amended to
17 read as follows:

18 To assist in identifying impairment related to alcohol abuse, the
19 (~~board~~) commission may obtain a copy of the driving record of a
20 physician or a physician assistant maintained by the department of
21 licensing.

22 NEW SECTION. **Sec. 335.** (1) RCW 18.72.155, 18.72.165, 18.72.265,
23 18.72.301, 18.72.306, 18.72.311, 18.72.316, 18.72.340, and 18.72.345,
24 as amended by this act, are each recodified as sections in chapter
25 18.71 RCW.

26 (2) RCW 18.72.010, 18.72.321, 18.72.380, 18.72.390, and 18.72.400
27 are each recodified as sections in chapter 18.71 RCW.

28 NEW SECTION. **Sec. 336.** The following acts or parts of acts are
29 each repealed:

30 (1) RCW 18.72.020 and 1986 c 259 s 115 & 1955 c 202 s 2;

31 (2) RCW 18.72.045 and 1991 c 215 s 1;

32 (3) RCW 18.72.090 and 1955 c 202 s 9;

33 (4) RCW 18.72.100 and 1991 c 3 s 166, 1984 c 287 s 45, 1979 ex.s.
34 c 111 s 3, 1979 c 158 s 59, 1975-'76 2nd ex.s. c 34 s 42, & 1955 c 202
35 s 10;

36 (5) RCW 18.72.110 and 1955 c 202 s 11;

- 1 (6) RCW 18.72.120 and 1991 c 3 s 167 & 1955 c 202 s 12;
2 (7) RCW 18.72.130 and 1979 ex.s. c 111 s 4 & 1955 c 202 s 13;
3 (8) RCW 18.72.150 and 1986 c 259 s 116, 1979 ex.s. c 111 s 5, 1975
4 c 61 s 4, & 1955 c 202 s 15;
5 (9) RCW 18.72.154 and 1986 c 259 s 107;
6 (10) RCW 18.72.190 and 1989 c 373 s 18 & 1955 c 202 s 19;
7 (11) RCW 18.72.900 and 1955 c 202 s 46; and
8 (12) RCW 18.72.910 and 1955 c 202 s 48.

9

NURSING CARE

10 NEW SECTION. **Sec. 401.** It is the purpose of the nursing care
11 quality assurance commission to regulate the competency and quality of
12 professional health care providers under its jurisdiction by
13 establishing, monitoring, and enforcing qualifications for licensing,
14 consistent standards of practice, continuing competency mechanisms, and
15 discipline. Rules, policies, and procedures developed by the
16 commission must promote the delivery of quality health care to the
17 residents of the state of Washington.

18 NEW SECTION. **Sec. 402.** Unless a different meaning is plainly
19 required by the context, the definitions set forth in this section
20 apply throughout this chapter.

21 (1) "Commission" means the Washington state nursing care quality
22 assurance commission.

23 (2) "Department" means the department of health.

24 (3) "Secretary" means the secretary of health or the secretary's
25 designee.

26 (4) "Diagnosis," in the context of nursing practice, means the
27 identification of, and discrimination between, the person's physical
28 and psycho-social signs and symptoms that are essential to effective
29 execution and management of the nursing care regimen.

30 (5) "Diploma" means written official verification of completion of
31 an approved nursing education program.

32 (6) "Nurse" or "nursing," unless otherwise specified as a practical
33 nurse or practical nursing, means a registered nurse or registered
34 nursing.

1 NEW SECTION. **Sec. 403.** (1) It is unlawful for a person to
2 practice or to offer to practice as a registered nurse in this state
3 unless that person has been licensed under this chapter. A person who
4 holds a license to practice as a registered nurse in this state may use
5 the title "registered nurse" and the abbreviation "R.N." No other
6 person may assume that title or use the abbreviation or any other
7 words, letters, signs, or figures to indicate that the person using
8 them is a registered nurse.

9 (2) It is unlawful for a person to practice or to offer to practice
10 as an advanced registered nurse practitioner or as a nurse practitioner
11 in this state unless that person has been licensed under this chapter.
12 A person who holds a license to practice as an advanced registered
13 nurse practitioner in this state may use the titles "advanced
14 registered nurse practitioner" and "nurse practitioner" and the
15 abbreviations "A.R.N.P." and "N.P." No other person may assume those
16 titles or use those abbreviations or any other words, letters, signs,
17 or figures to indicate that the person using them is an advanced
18 registered nurse practitioner or nurse practitioner.

19 (3) It is unlawful for a person to practice or to offer to practice
20 as a licensed practical nurse in this state unless that person has been
21 licensed under this chapter. A person who holds a license to practice
22 as a licensed practical nurse in this state may use the title "licensed
23 practical nurse" and the abbreviation "L.P.N." No other person may
24 assume that title or use that abbreviation or any other words, letters,
25 signs, or figures to indicate that the person using them is a licensed
26 practical nurse.

27 NEW SECTION. **Sec. 404.** (1) "Registered nursing practice" means
28 the performance of acts requiring substantial specialized knowledge,
29 judgment, and skill based on the principles of the biological,
30 physiological, behavioral, and sociological sciences in either:

31 (a) The observation, assessment, diagnosis, care or counsel, and
32 health teaching of the ill, injured, or infirm, or in the maintenance
33 of health or prevention of illness of others;

34 (b) The performance of such additional acts requiring education and
35 training and that are recognized by the medical and nursing professions
36 as proper and recognized by the commission to be performed by
37 registered nurses licensed under this chapter and that are authorized
38 by the commission through its rules;

1 (c) The administration, supervision, delegation, and evaluation of
2 nursing practice. However, nothing in this subsection affects the
3 authority of a hospital, hospital district, medical clinic, or office,
4 concerning its administration and supervision;

5 (d) The teaching of nursing;

6 (e) The executing of medical regimen as prescribed by a licensed
7 physician and surgeon, dentist, osteopathic physician and surgeon,
8 podiatric physician and surgeon, physician assistant, osteopathic
9 physician assistant, or advanced registered nurse practitioner.

10 (2) Nothing in this section prohibits a person from practicing a
11 profession for which a license has been issued under the laws of this
12 state or specifically authorized by any other law of the state of
13 Washington.

14 (3) This section does not prohibit (a) the nursing care of the
15 sick, without compensation, by an unlicensed person who does not hold
16 himself or herself out to be a registered nurse, or (b) the practice of
17 licensed practical nursing by a licensed practical nurse.

18 NEW SECTION. **Sec. 405.** "Advanced registered nursing practice"
19 means the performance of the acts of a registered nurse and the
20 performance of an expanded role in providing health care services as
21 recognized by the medical and nursing professions, the scope of which
22 is defined by rule by the commission. Upon approval by the commission,
23 an advanced registered nurse practitioner may prescribe legend drugs
24 and controlled substances contained in Schedule V of the Uniform
25 Controlled Substances Act, chapter 69.50 RCW.

26 Nothing in this section prohibits a person from practicing a
27 profession for which a license has been issued under the laws of this
28 state or specifically authorized by any other law of the state of
29 Washington.

30 This section does not prohibit (1) the nursing care of the sick,
31 without compensation, by an unlicensed person who does not hold himself
32 or herself out to be an advanced registered nurse practitioner, or (2)
33 the practice of registered nursing by a licensed registered nurse or
34 the practice of licensed practical nursing by a licensed practical
35 nurse.

36 NEW SECTION. **Sec. 406.** "Licensed practical nursing practice"
37 means the performance of services requiring the knowledge, skill, and

1 judgment necessary for carrying out selected aspects of the designated
2 nursing regimen under the direction and supervision of a licensed
3 physician and surgeon, dentist, osteopathic physician and surgeon,
4 physician assistant, osteopathic physician assistant, podiatric
5 physician and surgeon, advanced registered nurse practitioner, or
6 registered nurse.

7 Nothing in this section prohibits a person from practicing a
8 profession for which a license has been issued under the laws of this
9 state or specifically authorized by any other law of the state of
10 Washington.

11 This section does not prohibit the nursing care of the sick,
12 without compensation, by an unlicensed person who does not hold himself
13 or herself out to be a licensed practical nurse.

14 NEW SECTION. **Sec. 407.** (1) The state nursing care quality
15 assurance commission is established, consisting of eleven members to be
16 appointed by the governor to four-year terms. No person may serve as
17 a member of the commission for more than two consecutive full terms.

18 (2) There must be three registered nurse members, two advanced
19 registered nurse practitioner members, three licensed practical nurse
20 members, two public members, and one nonvoting midwife member licensed
21 under chapter 18.50 RCW, on the commission. Each member of the
22 commission must be a citizen of the United States and a resident of
23 this state.

24 (3) Registered nurse members of the commission must:

25 (a) Be licensed as registered nurses under this chapter; and

26 (b) Have had at least five years' experience in the active practice
27 of nursing and have been engaged in that practice within two years of
28 appointment.

29 (4) Advanced registered nurse practitioner members of the
30 commission must:

31 (a) Be licensed as advanced registered nurse practitioners under
32 this chapter; and

33 (b) Have had at least five years' experience in the active practice
34 of advanced registered nursing and have been engaged in that practice
35 within two years of appointment.

36 (5) Licensed practical nurse members of the commission must:

37 (a) Be licensed as licensed practical nurses under this chapter;

38 and

1 (b) Have had at least five years' actual experience as a licensed
2 practical nurse and have been engaged in practice as a practical nurse
3 within two years of appointment.

4 (6) Public members of the commission may not be a member of any
5 other health care licensing board or commission, or have a fiduciary
6 obligation to a facility rendering health services regulated by the
7 commission, or have a material or financial interest in the rendering
8 of health services regulated by the commission.

9 (7) The nonvoting licensed midwife member of the commission must:

10 (a) Be licensed as a midwife under chapter 18.50 RCW; and

11 (b) Have had at least five years' actual experience as a licensed
12 midwife and have been engaged in practice as a midwife within two years
13 of appointment.

14 In appointing the initial members of the commission, it is the
15 intent of the legislature that, to the extent possible, the governor
16 appoint the existing members of the board of nursing and the board of
17 practical nursing repealed under chapter . . . , Laws of 1994 (this
18 act). The governor may appoint initial members of the commission to
19 staggered terms of from one to four years. Thereafter, all members
20 shall be appointed to full four-year terms. Members of the commission
21 hold office until their successors are appointed.

22 NEW SECTION. **Sec. 408.** The governor may remove a member of the
23 commission for neglect of duty, misconduct, malfeasance or misfeasance
24 in office, or for incompetency or unprofessional conduct as defined in
25 chapter 18.130 RCW. Whenever the governor is satisfied that a member
26 of the commission has been guilty of neglect of duty, misconduct,
27 malfeasance or misfeasance in office, or of incompetency or
28 unprofessional conduct, the governor shall file with the secretary of
29 state a statement of the causes for and the order of removal from
30 office, and the secretary shall forthwith send a certified copy of the
31 statement of causes and order of removal to the last known post office
32 address of the member. If a vacancy occurs on the commission, the
33 governor shall appoint a replacement member to fill the remainder of
34 the unexpired term.

35 NEW SECTION. **Sec. 409.** Each commission member shall be
36 compensated in accordance with RCW 43.03.240 and shall be paid travel

1 expenses when away from home in accordance with RCW 43.03.050 and
2 43.03.060.

3 NEW SECTION. **Sec. 410.** The commission shall annually elect
4 officers from among its members. The commission shall meet at least
5 quarterly at times and places it designates. It shall hold such other
6 meetings during the year as may be deemed necessary to transact its
7 business. A majority of the commission members appointed and serving
8 constitutes a quorum at a meeting. All meetings of the commission must
9 be open and public, except that the commission may hold executive
10 sessions to the extent permitted by chapter 42.30 RCW.

11 Carrying a motion or resolution, adopting a rule, or passing a
12 measure requires the affirmative vote of a majority of a quorum of the
13 commission. The commission may appoint panels consisting of at least
14 three members. A quorum for transaction of any business by a panel is
15 a minimum of three members. A majority vote of a quorum of the panel
16 is required to transact business delegated to it by the commission.

17 NEW SECTION. **Sec. 411.** The commission shall keep a record of all
18 of its proceedings and make such reports to the governor as may be
19 required. The commission shall define by rules what constitutes
20 specialized and advanced levels of nursing practice as recognized by
21 the medical and nursing profession. The commission may adopt rules or
22 issue advisory opinions in response to questions put to it by
23 professional health associations, nursing practitioners, and consumers
24 in this state concerning the authority of various categories of nursing
25 practitioners to perform particular acts.

26 The commission shall approve curricula and shall establish criteria
27 for minimum standards for schools preparing persons for licensing as
28 registered nurses, advanced registered nurse practitioners, and
29 licensed practical nurses under this chapter. The commission shall
30 approve such schools of nursing as meet the requirements of this
31 chapter and the commission, and the commission shall approve
32 establishment of basic nursing education programs and shall establish
33 criteria as to the need for and the size of a program and the type of
34 program and the geographical location. The commission shall establish
35 criteria for proof of reasonable currency of knowledge and skill as a
36 basis for safe practice after three years' inactive or lapsed status.
37 The commission shall establish criteria for licensing by endorsement.

1 The commission shall determine examination requirements for applicants
2 for licensing as registered nurses, advanced registered nurse
3 practitioners, and licensed practical nurses under this chapter, and
4 shall certify to the secretary for licensing duly qualified applicants.

5 The commission shall adopt such rules under chapter 34.05 RCW as
6 are necessary to fulfill the purposes of this chapter.

7 The commission is the successor in interest of the board of nursing
8 and the board of practical nursing. All contracts, undertakings,
9 agreements, rules, regulations, decisions, orders, and policies of the
10 former board of nursing or the board of practical nursing continue in
11 full force and effect under the commission until the commission amends
12 or rescinds those rules, regulations, decisions, orders, or policies.

13 The members of the commission are immune from suit in an action,
14 civil or criminal, based on its disciplinary proceedings or other
15 official acts performed in good faith as members of the commission.

16 Whenever the workload of the commission requires, the commission
17 may request that the secretary appoint pro tempore members of the
18 commission. When serving, pro tempore members of the commission have
19 all of the powers, duties, and immunities, and are entitled to all of
20 the emoluments, including travel expenses, of regularly appointed
21 members of the commission.

22 NEW SECTION. **Sec. 412.** The Uniform Disciplinary Act, chapter
23 18.130 RCW, governs unlicensed practice, the issuance and denial of
24 licenses, and the discipline of licensees under this chapter.

25 NEW SECTION. **Sec. 413.** The secretary shall appoint, after
26 consultation with the commission, an executive director who shall act
27 to carry out this chapter. The secretary shall also employ such
28 professional, secretarial, clerical, and other assistants as may be
29 necessary to effectively administer this chapter. The secretary shall
30 fix the compensation and provide for travel expenses for the executive
31 director and all such employees, in accordance with RCW 43.03.050 and
32 43.03.060.

33 NEW SECTION. **Sec. 414.** The executive director must be a graduate
34 of an approved nursing education program and of a college or
35 university, with a masters' degree, and currently licensed as a
36 registered nurse under this chapter; have a minimum of eight years'

1 experience in nursing in any combination of administration and nursing
2 education; and have been actively engaged in the practice of registered
3 nursing or nursing education within two years immediately before the
4 time of appointment.

5 NEW SECTION. **Sec. 415.** An institution desiring to conduct a
6 school of registered nursing or a school or program of practical
7 nursing, or both, shall apply to the commission and submit evidence
8 satisfactory to the commission that:

9 (1) It is prepared to carry out the curriculum approved by the
10 commission for basic registered nursing or practical nursing, or both;
11 and

12 (2) It is prepared to meet other standards established by law and
13 by the commission.

14 The commission shall make, or cause to be made, such surveys of the
15 schools and programs, and of institutions and agencies to be used by
16 the schools and programs, as it determines are necessary. If in the
17 opinion of the commission, the requirements for an approved school of
18 registered nursing or a school or program of practical nursing, or
19 both, are met, the commission shall approve the school or program.

20 NEW SECTION. **Sec. 416.** (1) An applicant for a license to practice
21 as a registered nurse shall submit to the commission:

22 (a) An attested written application on a department form;

23 (b) Written official evidence of a diploma from an approved school
24 of nursing; and

25 (c) Any other official records specified by the commission.

26 (2) An applicant for a license to practice as an advanced
27 registered nurse practitioner shall submit to the commission:

28 (a) An attested written application on a department form;

29 (b) Written official evidence of completion of an advanced
30 registered nurse practitioner training program meeting criteria
31 established by the commission; and

32 (c) Any other official records specified by the commission.

33 (3) An applicant for a license to practice as a licensed practical
34 nurse shall submit to the commission:

35 (a) An attested written application on a department form;

36 (b) Written official evidence that the applicant is over the age of
37 eighteen;

1 (c) Written official evidence of a high school diploma or general
2 education development certificate or diploma;

3 (d) Written official evidence of completion of an approved
4 practical nursing program, or its equivalent; and

5 (e) Any other official records specified by the commission.

6 (4) At the time of submission of the application, the applicant for
7 a license to practice as a registered nurse, advanced registered nurse
8 practitioner, or licensed practical nurse must not be in violation of
9 chapter 18.130 RCW or this chapter.

10 (5) The commission shall establish by rule the criteria for
11 evaluating the education of all applicants.

12 NEW SECTION. **Sec. 417.** An applicant for a license to practice as
13 a registered nurse, advanced registered nurse practitioner, or licensed
14 practical nurse must pass an examination in subjects determined by the
15 commission. The examination may be supplemented by an oral or
16 practical examination. The commission shall establish by rule the
17 requirements for applicants who have failed the examination to qualify
18 for reexamination.

19 NEW SECTION. **Sec. 418.** When authorized by the commission, the
20 department shall issue an interim permit authorizing the applicant to
21 practice registered nursing, advanced registered nursing, or licensed
22 practical nursing, as appropriate, from the time of verification of the
23 completion of the school or training program until notification of the
24 results of the examination. Upon the applicant passing the
25 examination, and if all other requirements established by the
26 commission for licensing are met, the department shall issue the
27 applicant a license to practice registered nursing, advanced registered
28 nursing, or licensed practical nursing, as appropriate. If the
29 applicant fails the examination, the interim permit expires upon
30 notification to the applicant, and is not renewable. The holder of an
31 interim permit is subject to chapter 18.130 RCW.

32 NEW SECTION. **Sec. 419.** Upon approval of the application by the
33 commission, the department shall issue a license by endorsement without
34 examination to practice as a registered nurse or as a licensed
35 practical nurse to a person who is licensed as a registered nurse or
36 licensed practical nurse under the laws of another state, territory, or

1 possession of the United States, and who meets all other qualifications
2 for licensing.

3 An applicant who has graduated from a school or program of nursing
4 outside the United States and is licensed as a registered nurse or
5 licensed practical nurse, or their equivalents, outside the United
6 States must meet all qualifications required by this chapter and pass
7 examinations as determined by the commission.

8 NEW SECTION. **Sec. 420.** An applicant for a license to practice as
9 a registered nurse, advanced registered nurse practitioner, or licensed
10 practical nurse shall pay a fee as determined by the secretary under
11 RCW 43.70.250 to the state treasurer.

12 NEW SECTION. **Sec. 421.** A license issued under this chapter,
13 whether in an active or inactive status, must be renewed, except as
14 provided in this chapter. The licensee shall send the renewal form to
15 the department with a renewal fee, as determined by the secretary under
16 RCW 43.70.250, before the expiration date. Upon receipt of the renewal
17 form and the appropriate fee, the department shall issue the licensee
18 a license, which declares the holder to be a legal practitioner of
19 registered nursing, advanced registered nursing practice, or licensed
20 practical nursing, as appropriate, in either active or inactive status,
21 for the period of time stated on the license.

22 NEW SECTION. **Sec. 422.** A person licensed under this chapter who
23 allows his or her license to lapse by failing to renew the license,
24 shall on application for renewal pay a penalty determined by the
25 secretary under RCW 43.70.250. If the licensee fails to renew the
26 license before the end of the current licensing period, the department
27 shall issue the license for the next licensing period upon receipt of
28 a written application and fee determined by the secretary under RCW
29 43.70.250. Persons on lapsed status for three or more years must
30 provide evidence of knowledge and skill of current practice as required
31 by the commission.

32 NEW SECTION. **Sec. 423.** A person licensed under this chapter who
33 desires to retire temporarily from registered nursing practice,
34 advanced registered nursing practice, or licensed practical nursing
35 practice in this state shall send a written notice to the secretary.

1 Upon receipt of the notice the department shall place the name of
2 the person on inactive status. While remaining on this status the
3 person shall not practice in this state any form of nursing provided
4 for in this chapter. When the person desires to resume practice, the
5 person shall apply to the commission for renewal of the license and pay
6 a renewal fee to the state treasurer. Persons on inactive status for
7 three years or more must provide evidence of knowledge and skill of
8 current practice as required by the commission or as provided in this
9 chapter.

10 NEW SECTION. **Sec. 424.** (1) In the context of the definition of
11 registered nursing practice and advanced registered nursing practice,
12 this chapter shall not be construed as:

13 (a) Prohibiting the incidental care of the sick by domestic
14 servants or persons primarily employed as housekeepers, so long as they
15 do not practice registered nursing within the meaning of this chapter;

16 (b) Preventing a person from the domestic administration of family
17 remedies or the furnishing of nursing assistance in case of emergency;

18 (c) Prohibiting the practice of nursing by students enrolled in
19 approved schools as may be incidental to their course of study or
20 prohibiting the students from working as nursing aides;

21 (d) Prohibiting auxiliary services provided by persons carrying out
22 duties necessary for the support of nursing services, including those
23 duties that involve minor nursing services for persons performed in
24 hospitals, nursing homes, or elsewhere under the direction of licensed
25 physicians or the supervision of licensed registered nurses;

26 (e) Prohibiting the practice of nursing in this state by a legally
27 qualified nurse of another state or territory whose engagement requires
28 him or her to accompany and care for a patient temporarily residing in
29 this state during the period of one such engagement, not to exceed six
30 months in length, if the person does not represent or hold himself or
31 herself out as a registered nurse licensed to practice in this state;

32 (f) Prohibiting nursing or care of the sick, with or without
33 compensation, when done in connection with the practice of the
34 religious tenets of a church by adherents of the church so long as they
35 do not engage in the practice of nursing as defined in this chapter;

36 (g) Prohibiting the practice of a legally qualified nurse of
37 another state who is employed by the United States government or a

1 bureau, division, or agency thereof, while in the discharge of his or
2 her official duties;

3 (h) Permitting the measurement of the powers or range of human
4 vision, or the determination of the accommodation and refractive state
5 of the human eye or the scope of its functions in general, or the
6 fitting or adaptation of lenses for the aid thereof;

7 (i) Permitting the prescribing or directing the use of, or using,
8 an optical device in connection with ocular exercises, visual training,
9 vision training, or orthoptics;

10 (j) Permitting the prescribing of contact lenses for, or the
11 fitting and adaptation of contact lenses to, the human eye;

12 (k) Prohibiting the performance of routine visual screening;

13 (l) Permitting the practice of dentistry or dental hygiene as
14 defined in chapters 18.32 and 18.29 RCW, respectively;

15 (m) Permitting the practice of chiropractic as defined in chapter
16 18.25 RCW including the adjustment or manipulation of the articulation
17 of the spine;

18 (n) Permitting the practice of podiatric medicine and surgery as
19 defined in chapter 18.22 RCW;

20 (o) Permitting the performance of major surgery, except such minor
21 surgery as the commission may have specifically authorized by rule
22 adopted in accordance with chapter 34.05 RCW;

23 (p) Permitting the prescribing of controlled substances as defined
24 in Schedules I through IV of the Uniform Controlled Substances Act,
25 chapter 69.50 RCW, except as provided in (r) of this subsection;

26 (q) Prohibiting the determination and pronouncement of death;

27 (r) Prohibiting advanced registered nurse practitioners, approved
28 by the commission as certified registered nurse anesthetists from
29 selecting, ordering, or administering controlled substances as defined
30 in Schedules II through IV of the Uniform Controlled Substances Act,
31 chapter 69.50 RCW, consistent with their commission-recognized scope of
32 practice; subject to facility-specific protocols, and subject to a
33 request for certified registered nurse anesthetist anesthesia services
34 issued by a physician licensed under chapter 18.71 RCW, an osteopathic
35 physician and surgeon licensed under chapter 18.57 RCW, a dentist
36 licensed under chapter 18.32 RCW, or a podiatric physician and surgeon
37 licensed under chapter 18.22 RCW; the authority to select, order, or
38 administer Schedule II through IV controlled substances being limited
39 to those drugs that are to be directly administered to patients who

1 require anesthesia for diagnostic, operative, obstetrical, or
2 therapeutic procedures in a hospital, clinic, ambulatory surgical
3 facility, or the office of a practitioner licensed under chapter 18.71,
4 18.22, 18.36, 18.36A, 18.57, 18.57A, or 18.32 RCW; "select" meaning the
5 decision-making process of choosing a drug, dosage, route, and time of
6 administration; and "order" meaning the process of directing licensed
7 individuals pursuant to their statutory authority to directly
8 administer a drug or to dispense, deliver, or distribute a drug for the
9 purpose of direct administration to a patient, under instructions of
10 the certified registered nurse anesthetist. "Protocol" means a
11 statement regarding practice and documentation concerning such items as
12 categories of patients, categories of medications, or categories of
13 procedures rather than detailed case-specific formulas for the practice
14 of nurse anesthesia.

15 (2) In the context of the definition of licensed practical nursing
16 practice, this chapter shall not be construed as:

17 (a) Prohibiting the incidental care of the sick by domestic
18 servants or persons primarily employed as housekeepers, so long as they
19 do not practice practical nursing within the meaning of this chapter;

20 (b) Preventing a person from the domestic administration of family
21 remedies or the furnishing of nursing assistance in case of emergency;

22 (c) Prohibiting the practice of practical nursing by students
23 enrolled in approved schools as may be incidental to their course of
24 study or prohibiting the students from working as nursing assistants;

25 (d) Prohibiting auxiliary services provided by persons carrying out
26 duties necessary for the support of nursing services, including those
27 duties that involve minor nursing services for persons performed in
28 hospitals, nursing homes, or elsewhere under the direction of licensed
29 physicians or the supervision of licensed registered nurses;

30 (e) Prohibiting or preventing the practice of nursing in this state
31 by a legally qualified nurse of another state or territory whose
32 engagement requires him or her to accompany and care for a patient
33 temporarily residing in this state during the period of one such
34 engagement, not to exceed six months in length, if the person does not
35 represent or hold himself or herself out as a licensed practical nurse
36 licensed to practice in this state;

37 (f) Prohibiting nursing or care of the sick, with or without
38 compensation, when done in connection with the practice of the
39 religious tenets of a church by adherents of the church so long as they

1 do not engage in licensed practical nurse practice as defined in this
2 chapter;

3 (g) Prohibiting the practice of a legally qualified nurse of
4 another state who is employed by the United States government or any
5 bureau, division, or agency thereof, while in the discharge of his or
6 her official duties.

7 NEW SECTION. **Sec. 425.** An advanced registered nurse practitioner
8 under his or her license may perform for compensation nursing care, as
9 that term is usually understood, of the ill, injured, or infirm, and in
10 the course thereof, she or he may do the following things that shall
11 not be done by a person not so licensed, except as provided in sections
12 426 and 427 of this act:

13 (1) Perform specialized and advanced levels of nursing as
14 recognized jointly by the medical and nursing professions, as defined
15 by the commission;

16 (2) Prescribe legend drugs and Schedule V controlled substances, as
17 defined in the Uniform Controlled Substances Act, chapter 69.50 RCW,
18 within the scope of practice defined by the commission;

19 (3) Perform all acts provided in section 426 of this act;

20 (4) Hold herself or himself out to the public or designate herself
21 or himself as an advanced registered nurse practitioner or as a nurse
22 practitioner.

23 NEW SECTION. **Sec. 426.** A registered nurse under his or her
24 license may perform for compensation nursing care, as that term is
25 usually understood, of the ill, injured, or infirm, and in the course
26 thereof, she or he may do the following things that shall not be done
27 by a person not so licensed, except as provided in section 427 of this
28 act:

29 (1) At or under the general direction of a licensed physician and
30 surgeon, dentist, osteopathic physician and surgeon, podiatric
31 physician and surgeon, physician assistant, osteopathic physician
32 assistant, or advanced registered nurse practitioner acting within the
33 scope of his or her license, administer medications, treatments, tests,
34 and inoculations, whether or not the severing or penetrating of tissues
35 is involved and whether or not a degree of independent judgment and
36 skill is required;

1 (2) Delegate to other persons engaged in nursing, the functions
2 outlined in subsection (1) of this section;

3 (3) Instruct nurses in technical subjects pertaining to nursing;

4 (4) Hold herself or himself out to the public or designate herself
5 or himself as a registered nurse.

6 NEW SECTION. **Sec. 427.** A licensed practical nurse under his or
7 her license may perform nursing care, as that term is usually
8 understood, of the ill, injured, or infirm, and in the course thereof
9 may, under the direction of a licensed physician and surgeon,
10 osteopathic physician and surgeon, dentist, podiatric physician and
11 surgeon, physician assistant, osteopathic physician assistant, advanced
12 registered nurse practitioner acting under the scope of his or her
13 license, or at the direction and under the supervision of a registered
14 nurse, administer drugs, medications, treatments, tests, injections,
15 and inoculations, whether or not the piercing of tissues is involved
16 and whether or not a degree of independent judgment and skill is
17 required, when selected to do so by one of the licensed practitioners
18 designated in this section, or by a registered nurse who need not be
19 physically present; if the order given is reduced to writing within a
20 reasonable time and made a part of the patient's record.

21 NEW SECTION. **Sec. 428.** It is not a violation of chapter 18.71 RCW
22 or of chapter 18.57 RCW for a registered nurse, at or under the general
23 direction of a licensed physician and surgeon, or osteopathic physician
24 and surgeon, to administer prescribed drugs, injections, inoculations,
25 tests, or treatment whether or not the piercing of tissues is involved.

26 NEW SECTION. **Sec. 429.** (1) In accordance with rules adopted by
27 the commission, public school districts and private schools that offer
28 classes for any of grades kindergarten through twelve may provide for
29 clean, intermittent bladder catheterization of students or assisted
30 self-catheterization of students who are in the custody of the school
31 district or private school at the time. After consultation with staff
32 of the superintendent of public instruction, the commission shall adopt
33 rules in accordance with chapter 34.05 RCW, that provide for the
34 following and such other matters as the commission deems necessary to
35 the proper implementation of this section:

1 (a) A requirement for a written, current, and unexpired request
2 from a parent, legal guardian, or other person having legal control
3 over the student that the school district or private school provide for
4 the catheterization of the student;

5 (b) A requirement for a written, current, and unexpired request
6 from a physician licensed under chapter 18.71 or 18.57 RCW, that
7 catheterization of the student be provided for during the hours when
8 school is in session or the hours when the student is under the
9 supervision of school officials;

10 (c) A requirement for written, current, and unexpired instructions
11 from an advanced registered nurse practitioner or a registered nurse
12 licensed under this chapter regarding catheterization that include (i)
13 a designation of the school district or private school employee or
14 employees who may provide for the catheterization, and (ii) a
15 description of the nature and extent of any required supervision; and

16 (d) The nature and extent of acceptable training that shall (i) be
17 provided by a physician, advanced registered nurse practitioner, or
18 registered nurse licensed under chapter 18.71 or 18.57 RCW, or this
19 chapter, and (ii) be required of school district or private school
20 employees who provide for the catheterization of a student under this
21 section, except that a licensed practical nurse licensed under this
22 chapter is exempt from training.

23 (2) This section does not require school districts to provide
24 intermittent bladder catheterization of students.

25 NEW SECTION. **Sec. 430.** The department, subject to chapter 34.05
26 RCW, the Washington Administrative Procedure Act, may adopt such
27 reasonable rules as may be necessary to carry out the duties imposed
28 upon it in the administration of this chapter.

29 NEW SECTION. **Sec. 431.** As of the effective date of this act, all
30 rules, regulations, decisions, and orders of the board of nursing under
31 chapter 18.88 RCW or the board of practical nursing under chapter 18.78
32 RCW continue to be in effect under the commission, until the commission
33 acts to modify the rules, regulations, decisions, or orders.

34 NEW SECTION. **Sec. 432.** Sections 401 through 431 of this act
35 constitute a new chapter in Title 18 RCW.

1 NEW SECTION. **Sec. 433.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 18.78.005 and 1991 c 84 s 1 & 1983 c 55 s 1;
4 (2) RCW 18.78.010 and 1991 c 84 s 13, 1991 c 3 s 185, 1983 c 55 s
5 2, 1967 c 79 s 1, 1963 c 15 s 1, & 1949 c 222 s 1;
6 (3) RCW 18.78.020 and 1991 c 84 s 2, 1983 c 55 s 3, 1967 c 79 s 2,
7 & 1949 c 222 s 2;
8 (4) RCW 18.78.030 and 1991 c 84 s 3, 1983 c 55 s 4, & 1949 c 222 s
9 3;
10 (5) RCW 18.78.040 and 1991 c 84 s 4, 1984 c 287 s 47, 1983 c 55 s
11 5, 1975-'76 2nd ex.s. c 34 s 45, 1967 c 188 s 4, & 1949 c 222 s 4;
12 (6) RCW 18.78.050 and 1991 c 84 s 5, 1988 c 211 s 4, 1986 c 259 s
13 129, 1983 c 55 s 6, 1979 c 158 s 64, 1967 c 79 s 3, & 1949 c 222 s 5;
14 (7) RCW 18.78.054 and 1987 c 150 s 49 & 1986 c 259 s 128;
15 (8) RCW 18.78.055 and 1991 c 84 s 6 & 1983 c 55 s 7;
16 (9) RCW 18.78.058 and 1987 c 150 s 50;
17 (10) RCW 18.78.060 and 1991 c 84 s 7, 1988 c 212 s 1, 1983 c 55 s
18 8, 1971 ex.s. c 292 s 26, 1963 c 15 s 2, & 1949 c 222 s 6;
19 (11) RCW 18.78.070 and 1986 c 259 s 130, 1983 c 55 s 9, & 1949 c
20 222 s 7;
21 (12) RCW 18.78.072 and 1988 c 211 s 3;
22 (13) RCW 18.78.080 and 1991 c 84 s 8, 1985 c 7 s 65, 1979 c 158 s
23 65, 1975 1st ex.s. c 30 s 68, 1963 c 15 s 3, & 1949 c 222 s 9;
24 (14) RCW 18.78.090 and 1991 c 84 s 9, 1986 c 259 s 131, 1985 c 7 s
25 66, 1983 c 55 s 10, 1979 c 158 s 66, 1975 1st ex.s. c 30 s 69, 1971
26 ex.s. c 266 s 14, 1967 c 79 s 4, 1963 c 15 s 4, & 1949 c 222 s 10;
27 (15) RCW 18.78.100 and 1991 c 84 s 10, 1991 c 3 s 190, 1983 c 55 s
28 11, 1971 c 68 s 1, & 1949 c 222 s 11;
29 (16) RCW 18.78.160 and 1991 c 84 s 12, 1983 c 55 s 15, & 1949 c 222
30 s 17;
31 (17) RCW 18.78.182 and 1991 c 84 s 11, 1983 c 55 s 19, 1971 c 68 s
32 2, & 1967 c 79 s 6;
33 (18) RCW 18.78.225 and 1991 c 3 s 192 & 1988 c 211 s 12;
34 (19) RCW 18.78.900 and 1949 c 222 s 19;
35 (20) RCW 18.78.901 and 1983 c 55 s 22;
36 (21) RCW 18.88.010 and 1973 c 133 s 1 & 1949 c 202 s 1;
37 (22) RCW 18.88.020 and 1973 c 133 s 2 & 1949 c 202 s 2;
38 (23) RCW 18.88.030 and 1991 c 3 s 213, 1989 c 114 s 1, 1979 c 158
39 s 69, 1973 c 133 s 3, 1961 c 288 s 1, & 1949 c 202 s 4;

1 (24) RCW 18.88.050 and 1989 c 114 s 2, 1973 c 133 s 4, & 1949 c 202
2 s 5;
3 (25) RCW 18.88.060 and 1973 c 133 s 5, 1961 c 288 s 3, & 1949 c 202
4 s 6;
5 (26) RCW 18.88.070 and 1989 c 114 s 3, 1973 c 133 s 6, & 1949 c 202
6 s 7;
7 (27) RCW 18.88.080 and 1991 c 3 s 214, 1988 c 211 s 8, 1984 c 287
8 s 50, 1977 c 75 s 12, 1975-'76 2nd ex.s. c 34 s 50, 1973 c 133 s 7,
9 1961 c 288 s 4, & 1949 c 202 s 8;
10 (28) RCW 18.88.086 and 1987 c 150 s 57 & 1986 c 259 s 135;
11 (29) RCW 18.88.090 and 1991 c 3 s 215, 1975-'76 2nd ex.s. c 34 s
12 51, 1973 c 133 s 8, 1961 c 288 s 5, & 1949 c 202 s 9;
13 (30) RCW 18.88.100 and 1973 c 133 s 9, 1961 c 288 s 6, & 1949 c 202
14 s 10;
15 (31) RCW 18.88.110 and 1973 c 133 s 10 & 1949 c 202 s 11;
16 (32) RCW 18.88.120 and 1973 c 133 s 11 & 1949 c 202 s 12;
17 (33) RCW 18.88.130 and 1989 c 114 s 4, 1973 c 133 s 12, 1961 s 288
18 s 7, & 1949 c 202 s 13;
19 (34) RCW 18.88.140 and 1989 c 114 s 5, 1973 c 133 s 13, 1961 c 288
20 s 8, & 1949 c 202 s 14;
21 (35) RCW 18.88.150 and 1989 c 114 s 6, 1988 c 211 s 5, 1973 c 133
22 s 14, 1961 c 288 s 9, & 1949 c 202 s 15;
23 (36) RCW 18.88.160 and 1991 c 3 s 216, 1985 c 7 s 68, 1975 1st
24 ex.s. c 30 s 77, 1973 c 133 s 15, 1961 c 288 s 10, & 1949 c 202 s 16;
25 (37) RCW 18.88.170 and 1973 c 133 s 16 & 1949 c 202 s 17;
26 (38) RCW 18.88.175 and 1991 c 3 s 217 & 1988 c 211 s 13;
27 (39) RCW 18.88.190 and 1991 c 3 s 218, 1988 c 211 s 9, 1985 c 7 s
28 69, 1979 ex.s. c 106 s 1, 1975 1st ex.s. c 30 s 78, 1973 c 133 s 18,
29 1971 ex.s. c 266 s 18, 1961 c 288 s 11, & 1949 c 202 s 19;
30 (40) RCW 18.88.200 and 1991 c 3 s 219, 1988 c 211 s 10, 1985 c 7 s
31 70, 1975 1st ex.s. c 30 s 79, 1973 c 133 s 19, 1961 c 288 s 12, & 1949
32 c 202 s 20;
33 (41) RCW 18.88.220 and 1991 c 3 s 220, 1988 c 211 s 11, 1973 c 133
34 s 20, & 1949 c 202 s 22;
35 (42) RCW 18.88.270 and 1986 c 259 s 136, 1973 c 133 s 26, & 1949 c
36 202 s 27;
37 (43) RCW 18.88.280 and 1993 c 225 s 1, 1989 c 114 s 7, 1988 c 37 s
38 1, 1973 c 133 s 27, 1961 c 288 s 13, & 1949 c 202 s 28;

1 (44) RCW 18.88.285 and 1989 c 114 s 8, 1973 c 133 s 28, 1967 c 79
2 s 9, & 1961 c 288 s 14;
3 (45) RCW 18.88.290 and 1955 c 62 s 1;
4 (46) RCW 18.88.295 and 1988 c 48 s 1;
5 (47) RCW 18.88.300 and 1973 c 133 s 29;
6 (48) RCW 18.88.900 and 1949 c 202 s 29; and
7 (49) RCW 18.88A.070 and 1991 c 16 s 9, 1991 c 3 s 223, 1989 c 300
8 s 9, & 1988 c 267 s 9.

9

MENTAL HEALTH CARE

10 **Sec. 501.** RCW 18.19.070 and 1991 c 3 s 22 are each amended to read
11 as follows:

12 (1) (~~Within sixty days of July 26, 1987, the secretary shall have~~
13 ~~authority to appoint advisory committees to further the purposes of~~
14 ~~this chapter. Each such committee shall be composed of five members,~~
15 ~~one member initially appointed for a term of one year, two for terms of~~
16 ~~two years, and two for terms of three years. No person may serve as a~~
17 ~~member of the committee for more than two consecutive terms.)) The
18 Washington state mental health quality assurance council is created,
19 consisting of nine members appointed by the secretary. All
20 appointments shall be for a term of four years. No person may serve as
21 a member of the council for more than two consecutive full terms.~~

22 Voting members of the council must include one social worker
23 certified under RCW 18.19.110, one mental health counselor certified
24 under RCW 18.19.120, one marriage and family therapist certified under
25 RCW 18.19.130, one counselor registered under RCW 18.19.090, one
26 hypnotherapist registered under RCW 18.19.090, and two public members.
27 Each member of the council must be a citizen of the United States and
28 a resident of this state. Public members of the council may not be a
29 member of any other health care licensing board or commission, or have
30 a fiduciary obligation to a facility rendering health services
31 regulated by the council, or have a material or financial interest in
32 the rendering of health services regulated by the council.

33 The secretary may appoint the initial members of the council to
34 staggered terms of from one to four years. Thereafter, all members
35 shall be appointed to full four-year terms. Members of the council
36 hold office until their successors are appointed.

1 The secretary may remove any member of the ((~~advisory committees~~))
2 council for cause as specified by rule. In the case of a vacancy, the
3 secretary shall appoint a person to serve for the remainder of the
4 unexpired term.

5 (2) The ((~~advisory committees~~)) council shall ((~~each~~)) meet at the
6 times and places designated by the secretary and shall hold meetings
7 during the year as necessary to provide advice to the secretary.

8 Each member of ((~~an advisory committee~~)) the council shall be
9 reimbursed for travel expenses as authorized in RCW 43.03.050 and
10 43.03.060. In addition, members of the ((~~committees~~)) council shall be
11 compensated in accordance with RCW 43.03.240 when engaged in the
12 authorized business of ((~~their committee~~).

13 ~~(3) Members of an advisory committee shall be residents of this~~
14 ~~state. Each committee shall be composed of four individuals registered~~
15 ~~or certified in the category designated by the committee title, and one~~
16 ~~member who is a member of the public)) the council. The members of the
17 council are immune from suit in an action, civil or criminal, based on
18 their official acts performed in good faith as members of the council.~~

19 **ACUPUNCTURE**

20 **Sec. 502.** RCW 4.24.240 and 1985 c 326 s 25 are each amended to
21 read as follows:

22 (1)(a) A person licensed by this state to provide health care or
23 related services, including, but not limited to, a ((~~certified~~))
24 licensed acupuncturist, a physician, osteopathic physician, dentist,
25 nurse, optometrist, ((~~podiatrist~~)) podiatric physician and surgeon,
26 chiropractor, physical therapist, psychologist, pharmacist, optician,
27 physician's assistant, osteopathic physician's assistant, nurse
28 practitioner, including, in the event such person is deceased, his or
29 her estate or personal representative;

30 (b) An employee or agent of a person described in subparagraph (a)
31 of this subsection, acting in the course and scope of his or her
32 employment, including, in the event such employee or agent is deceased,
33 his or her estate or personal representative; or

34 (c) An entity, whether or not incorporated, facility, or
35 institution employing one or more persons described in subparagraph (a)
36 of this subsection, including, but not limited to, a hospital, clinic,

1 health maintenance organization, or nursing home; or an officer,
2 director, trustee, employee, or agent thereof acting in the course and
3 scope of his or her employment, including in the event such officer,
4 director, employee, or agent is deceased, his or her estate or personal
5 representative;

6 shall be immune from civil action for damages arising out of the good
7 faith performance of their duties on such committees, where such
8 actions are being brought by or on behalf of the person who is being
9 evaluated.

10 (2) No member, employee, staff person, or investigator of a
11 professional review committee shall be liable in a civil action as a
12 result of acts or omissions made in good faith on behalf of the
13 committee; nor shall any person be so liable for filing charges with or
14 supplying information or testimony in good faith to any professional
15 review committee; nor shall a member, employee, staff person, or
16 investigator of a professional society, of a professional examining or
17 licensing board, of a professional disciplinary board, of a governing
18 board of any institution, or of any employer of professionals be so
19 liable for good faith acts or omissions made in full or partial
20 reliance on recommendations or decisions of a professional review
21 committee or examining board.

22 **Sec. 503.** RCW 7.70.020 and 1985 c 326 s 27 are each amended to
23 read as follows:

24 As used in this chapter "health care provider" means either:

25 (1) A person licensed by this state to provide health care or
26 related services, including, but not limited to, a ((certified))
27 licensed acupuncturist, a physician, osteopathic physician, dentist,
28 nurse, optometrist, ((pediatrist)) podiatric physician and surgeon,
29 chiropractor, physical therapist, psychologist, pharmacist, optician,
30 physician's assistant, midwife, osteopathic physician's assistant,
31 nurse practitioner, or physician's trained mobile intensive care
32 paramedic, including, in the event such person is deceased, his or her
33 estate or personal representative;

34 (2) An employee or agent of a person described in part (1) above,
35 acting in the course and scope of his employment, including, in the
36 event such employee or agent is deceased, his or her estate or personal
37 representative; or

1 (3) An entity, whether or not incorporated, facility, or
2 institution employing one or more persons described in part (1) above,
3 including, but not limited to, a hospital, clinic, health maintenance
4 organization, or nursing home; or an officer, director, employee, or
5 agent thereof acting in the course and scope of his or her employment,
6 including in the event such officer, director, employee, or agent is
7 deceased, his or her estate or personal representative.

8 **Sec. 504.** RCW 18.06.010 and 1992 c 110 s 1 are each amended to
9 read as follows:

10 The following terms in this chapter shall have the meanings set
11 forth in this section unless the context clearly indicates otherwise:

12 (1) "Acupuncture" means a health care service based on ((a
13 ~~traditional~~)) an Oriental system of medical theory utilizing Oriental
14 diagnosis and treatment to promote health and treat organic or
15 functional disorders by treating specific acupuncture points or
16 meridians. Acupuncture includes ((~~but is not necessarily limited to~~))
17 the following techniques:

18 (a) Use of acupuncture needles to stimulate acupuncture points and
19 meridians;

20 (b) Use of electrical, mechanical, or magnetic devices to stimulate
21 acupuncture points and meridians;

22 (c) Moxibustion;

23 (d) Acupressure;

24 (e) Cupping;

25 (f) Dermal friction technique;

26 (g) Infra-red;

27 (h) Sonopuncture;

28 (i) Laserpuncture;

29 (j) ((~~Dietary advice based on traditional Oriental medical theory;~~
30 ~~and~~

31 ~~(k))~~) Point injection therapy (aquapuncture); and

32 (k) Dietary advice based on Oriental medical theory provided in
33 conjunction with techniques under (a) through (j) of this subsection.

34 (2) "Acupuncturist" means a person ((~~certified~~)) licensed under
35 this chapter.

36 (3) "Department" means the department of health.

37 (4) "Secretary" means the secretary of health or the secretary's
38 designee.

1 **Sec. 505.** RCW 18.06.020 and 1991 c 3 s 5 are each amended to read
2 as follows:

3 (1) No one may hold themselves out to the public as an
4 acupuncturist or ~~((certified))~~ licensed acupuncturist or any derivative
5 thereof which is intended to or is likely to lead the public to believe
6 such a person is an acupuncturist or ~~((certified))~~ licensed
7 acupuncturist unless ~~((certified))~~ licensed as provided for in this
8 chapter.

9 (2) A person may not practice acupuncture if the person is not
10 licensed under this chapter.

11 (3) No one may use any configuration of letters after their name
12 (including Ac.) which indicates a degree or formal training in
13 acupuncture unless ~~((certified))~~ licensed as provided for in this
14 chapter.

15 ~~((+3))~~ (4) The secretary may by rule proscribe or regulate
16 advertising and other forms of patient solicitation which are likely to
17 mislead or deceive the public as to whether someone is ~~((certified))~~
18 licensed under this chapter.

19 **Sec. 506.** RCW 18.06.045 and 1992 c 110 s 2 are each amended to
20 read as follows:

21 Nothing in this chapter shall be construed to prohibit or restrict:

22 (1) The practice ~~((by an individual licensed, certified, or~~
23 ~~registered))~~ by an individual credentialed under the laws of this state
24 and performing services within such individual's authorized scope of
25 practice. Health professions authorized to perform acupuncture under
26 other chapters of state law may follow recommended guidelines developed
27 by the acupuncture advisory committee to assist in determining the
28 level of training sufficient to allow for the provision of safe
29 acupuncture services;

30 (2) The practice by an individual employed by the government of the
31 United States while engaged in the performance of duties prescribed by
32 the laws of the United States;

33 (3) The practice by a person who is a regular student in an
34 educational program approved by the secretary, and whose performance of
35 services is pursuant to a regular course of instruction or assignments
36 from an instructor and under the general supervision of the instructor;

37 (4) The practice of acupuncture by any person ~~((licensed or~~
38 ~~certified))~~ credentialed to perform acupuncture in any other

1 jurisdiction where such person is doing so in the course of regular
2 instruction of a school of acupuncture approved by the secretary or in
3 an educational seminar by a professional organization of acupuncture,
4 provided that in the latter case, the practice is supervised directly
5 by a person (~~(certified pursuant to)~~) licensed under this chapter or
6 licensed under any other healing art whose scope of practice includes
7 acupuncture.

8 **Sec. 507.** RCW 18.06.080 and 1992 c 110 s 3 are each amended to
9 read as follows:

10 (1) The secretary is hereby authorized and empowered to execute the
11 provisions of this chapter and shall offer examinations in acupuncture
12 at least twice a year at such times and places as the secretary may
13 select. The examination shall be a written examination and may include
14 a practical examination.

15 (2) The secretary shall develop or approve a (~~(certification)~~)
16 licensure examination in the subjects that the secretary determines are
17 within the scope of and commensurate with the work performed by
18 (~~(certified)~~) licensed acupuncturists and shall include but not
19 necessarily be limited to anatomy, physiology, microbiology,
20 biochemistry, pathology, hygiene, and acupuncture. All application
21 papers shall be deposited with the secretary and there retained for at
22 least one year, when they may be destroyed.

23 (3) If the examination is successfully passed, the secretary shall
24 confer on such candidate the title of (~~(Certified)~~) Licensed
25 Acupuncturist.

26 **Sec. 508.** RCW 18.06.090 and 1985 c 326 s 9 are each amended to
27 read as follows:

28 Before (~~(certification)~~) licensure, each applicant shall
29 demonstrate sufficient fluency in reading, speaking, and understanding
30 the English language to enable the applicant to communicate with other
31 health care providers and patients concerning health care problems and
32 treatment.

33 **Sec. 509.** RCW 18.06.110 and 1991 c 3 s 11 are each amended to read
34 as follows:

35 The uniform disciplinary act, chapter 18.130 RCW, governs
36 uncertified practice, the issuance and denial of (~~(certificates)~~)

1 licenses, and the disciplining of ((certificate)) license holders under
2 this chapter. The secretary shall be the disciplining authority under
3 this chapter.

4 **Sec. 510.** RCW 18.06.120 and 1992 c 110 s 4 are each amended to
5 read as follows:

6 (1) Every person ((certified)) licensed in acupuncture shall
7 register with the secretary annually and pay an annual renewal
8 ((registration)) fee determined by the secretary as provided in RCW
9 43.70.250 on or before the ((certificate)) license holder's birth
10 anniversary date. The ((certificate)) license of the person shall be
11 renewed for a period of one year or longer in the discretion of the
12 secretary. A person whose practice is exclusively out-of-state or who
13 is on sabbatical shall be granted an inactive ((certification))
14 licensure status and pay a reduced ((registration)) fee. The reduced
15 fee shall be set by the secretary under RCW 43.70.250.

16 (2) Any failure to register and pay the annual renewal
17 ((registration)) fee shall render the ((certificate)) license invalid.
18 The ((certificate)) license shall be reinstated upon: (a) Written
19 application to the secretary; (b) payment to the state of a penalty fee
20 determined by the secretary as provided in RCW 43.70.250; and (c)
21 payment to the state of all delinquent annual ((certificate)) license
22 renewal fees.

23 (3) Any person who fails to renew his or her ((certification))
24 license for a period of three years shall not be entitled to renew
25 ((such certification)) the licensure under this section. Such person,
26 in order to obtain a ((certification)) licensure in acupuncture in this
27 state, shall file a new application under this chapter, along with the
28 required fee, and shall meet examination or continuing education
29 requirements as the secretary, by rule, provides.

30 (4) All fees collected under this section and RCW 18.06.070 shall
31 be credited to the health professions account as required under RCW
32 43.70.320.

33 **Sec. 511.** RCW 18.06.130 and 1991 c 3 s 13 are each amended to read
34 as follows:

35 The secretary shall develop a form to be used by an acupuncturist
36 to inform the patient of the acupuncturist's scope of practice and
37 qualifications. All ((certificate)) license holders shall bring the

1 form to the attention of the patients in whatever manner the secretary,
2 by rule, provides.

3 **Sec. 512.** RCW 18.06.140 and 1991 c 3 s 14 are each amended to read
4 as follows:

5 Every (~~certified~~) licensed acupuncturist shall develop a written
6 plan for consultation, emergency transfer, and referral to other health
7 care practitioners operating within the scope of their authorized
8 practices. The written plan shall be submitted with the initial
9 application for (~~certification~~) licensure as well as annually
10 thereafter with the (~~certificate~~) license renewal fee to the
11 department. The department may withhold (~~certification~~) licensure or
12 renewal of (~~certification~~) licensure if the plan fails to meet the
13 standards contained in rules (~~promulgated~~) adopted by the secretary.

14 When the acupuncturist sees patients with potentially serious
15 disorders such as cardiac conditions, acute abdominal symptoms, and
16 such other conditions, the acupuncturist shall immediately request a
17 consultation or recent written diagnosis from a physician licensed
18 under chapter 18.71 or 18.57 RCW. In the event that the patient with
19 the disorder refuses to authorize such consultation or provide a recent
20 diagnosis from such physician, acupuncture treatment shall not be
21 continued.

22 **Sec. 513.** RCW 18.06.190 and 1991 c 3 s 18 are each amended to read
23 as follows:

24 The secretary may (~~certify~~) license a person without examination
25 if such person is (~~licensed or certified~~) credentialed as an
26 acupuncturist in another jurisdiction if, in the secretary's judgment,
27 the requirements of that jurisdiction are equivalent to or greater than
28 those of Washington state.

29 **Sec. 514.** RCW 18.06.200 and 1985 c 326 s 20 are each amended to
30 read as follows:

31 Nothing in this chapter may be construed to require that individual
32 or group policies or contracts of an insurance carrier, health care
33 service contractor, or health maintenance organization provide benefits
34 or coverage for services and supplies provided by a person (~~registered~~
35 ~~or certified~~) licensed under this chapter.

1 empirical/wax pattern-fitted method eye, or a combination of either, as
2 delineated in the ophthalmologist examination.

3

RADIOLOGIC TECHNOLOGISTS

4 **Sec. 517.** RCW 18.84.020 and 1991 c 222 s 2 are each amended to
5 read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

9 (2) "Secretary" means the secretary of health.

10 (3) "Licensed practitioner" means any licensed health care
11 practitioner performing services within the person's authorized scope
12 of practice.

13 (4) "Radiologic technologist" means an individual certified under
14 this chapter, other than a licensed practitioner, who practices
15 radiologic technology as a:

16 (a) Diagnostic radiologic technologist, who is a person who
17 actually handles x-ray equipment in the process of applying radiation
18 on a human being for diagnostic purposes at the direction of a licensed
19 practitioner; or

20 (b) Therapeutic radiologic technologist, who is a person who uses
21 radiation-generating equipment for therapeutic purposes on human
22 subjects at the direction of a licensed practitioner; or

23 (c) Nuclear medicine technologist, who is a person who prepares
24 radiopharmaceuticals and administers them to human beings for
25 diagnostic and therapeutic purposes and who performs in vivo and in
26 vitro detection and measurement of radioactivity for medical purposes
27 at the direction of a licensed practitioner.

28 (5) (~~"Advisory committee" means the Washington state radiologic
29 technology advisory committee.~~

30 (6)) "Approved school of radiologic technology" means a school of
31 radiologic technology approved by the council on medical education of
32 the American medical association or a school found to maintain the
33 equivalent of such a course of study as determined by the department.
34 Such school may be operated by a medical or educational institution,
35 and for the purpose of providing the requisite clinical experience,
36 shall be affiliated with one or more general hospitals.

1 ~~((7))~~ (6) "Radiologic technology" means the use of ionizing
2 radiation upon a human being for diagnostic or therapeutic purposes.

3 ~~((8))~~ (7) "Radiologist" means a physician certified by the
4 American board of radiology or the American osteopathic board of
5 radiology.

6 ~~((9))~~ (8) "Registered x-ray technician" means a person who is
7 registered with the department, and who applies ionizing radiation at
8 the direction of a licensed practitioner.

9 **Sec. 518.** RCW 18.84.040 and 1991 c 222 s 11 are each amended to
10 read as follows:

11 (1) In addition to any other authority provided by law, the
12 secretary may ~~((in consultation with the advisory committee))~~:

13 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
14 implement this chapter;

15 (b) Set all registration, certification, and renewal fees in
16 accordance with RCW 43.70.250;

17 (c) Establish forms and procedures necessary to administer this
18 chapter;

19 (d) Evaluate and designate those schools from which graduation will
20 be accepted as proof of an applicant's eligibility to receive a
21 certificate;

22 (e) Determine whether alternative methods of training are
23 equivalent to formal education, and to establish forms, procedures, and
24 criteria for evaluation of an applicant's alternative training to
25 determine the applicant's eligibility to receive a certificate;

26 (f) Issue a certificate to any applicant who has met the education,
27 training, and conduct requirements for certification; and

28 (g) Issue a registration to an applicant who meets the requirement
29 for a registration.

30 (2) The secretary may hire clerical, administrative, and
31 investigative staff as needed to implement this chapter.

32 (3) The Uniform Disciplinary Act, chapter 18.130 RCW, governs the
33 issuance and denial of registrations and certifications, unregistered
34 and uncertified practice, and the discipline of registrants and
35 certificants under this chapter. The secretary is the disciplining
36 authority under this chapter.

37 (4) The secretary may appoint ad hoc members of the profession to
38 serve in an ad hoc advisory capacity to the secretary in carrying out

1 this chapter. The members will serve for designated times and provide
2 advice on matters specifically identified and requested by the
3 secretary. The members shall be compensated in accordance with RCW
4 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and
5 43.03.060.

6 **Sec. 519.** RCW 18.84.070 and 1991 c 3 s 208 are each amended to
7 read as follows:

8 The secretary, ad hoc committee members (~~(of the committee)~~), or
9 individuals acting on their behalf are immune from suit in any civil
10 action based on any certification or disciplinary proceedings or other
11 official acts performed in the course of their duties.

12 **Sec. 520.** RCW 18.84.090 and 1991 c 3 s 210 are each amended to
13 read as follows:

14 The secretary(~~(, in consultation with the advisory committee,)~~)
15 shall establish by rule the standards and procedures for approval of
16 schools and alternate training, and may contract with individuals or
17 organizations having expertise in the profession or in education to
18 assist in evaluating those applying for approval. The standards and
19 procedures set shall apply equally to schools and training within the
20 United States and those in foreign jurisdictions.

21 **Sec. 521.** RCW 18.84.110 and 1991 c 3 s 212 are each amended to
22 read as follows:

23 The secretary(~~(, in consultation with the advisory committee,)~~)
24 shall establish by rule the requirements and fees for renewal of
25 certificates. Failure to renew invalidates the certificate and all
26 privileges granted by the certificate. In the event a certificate has
27 lapsed for a period longer than three years, the certificant shall
28 demonstrate competence to the satisfaction of the secretary by
29 continuing education or under the other standards determined by the
30 secretary.

31 NEW SECTION. **Sec. 522.** RCW 18.84.060 and 1991 c 3 s 207 & 1987 c
32 412 s 7 are each repealed.

33 **RESPIRATORY CARE PRACTITIONERS**

1 **Sec. 523.** RCW 18.89.020 and 1991 c 3 s 227 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) (~~("Advisory committee" means the Washington state advisory~~
6 ~~respiratory care committee.~~

7 ~~(2))~~ "Department" means the department of health.

8 ~~((3))~~ (2) "Secretary" means the secretary of health or the
9 secretary's designee.

10 ~~((4))~~ (3) "Respiratory care practitioner" means an individual
11 certified under this chapter.

12 ~~((5))~~ (4) "Physician" means an individual licensed under chapter
13 18.57 or 18.71 RCW.

14 ~~((6))~~ (5) "Rural hospital" means a hospital located anywhere in
15 the state except the following areas:

16 (a) The entire counties of Snohomish (including Camano Island),
17 King, Kitsap, Pierce, Thurston, Clark, and Spokane;

18 (b) Areas within a twenty-mile radius of an urban area with a
19 population exceeding thirty thousand persons; and

20 (c) Those cities or city-clusters located in rural counties but
21 which for all practical purposes are urban. These areas are
22 Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima,
23 Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

24 **Sec. 524.** RCW 18.89.050 and 1991 c 3 s 228 are each amended to
25 read as follows:

26 (1) In addition to any other authority provided by law, the
27 secretary(~~(, in consultation with the advisory committee,)~~) may:

28 (a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to
29 implement this chapter;

30 (b) Set all certification, examination, and renewal fees in
31 accordance with RCW 43.70.250;

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

34 (d) Issue a certificate to any applicant who has met the education,
35 training, and examination requirements for certification;

36 (e) Hire clerical, administrative, and investigative staff as
37 needed to implement this chapter and hire individuals certified under
38 this chapter to serve as examiners for any practical examinations;

1 (f) Approve those schools from which graduation will be accepted as
2 proof of an applicant's eligibility to take the certification
3 examination;

4 (g) Prepare, grade, and administer, or determine the nature of, and
5 supervise the grading and administration of, examinations for
6 applicants for certification;

7 (h) Determine whether alternative methods of training are
8 equivalent to formal education and establish forms, procedures, and
9 criteria for evaluation of an applicant's alternative training to
10 determine the applicant's eligibility to take the examination;

11 (i) Determine which states have legal credentialing requirements
12 equivalent to those of this state and issue certificates to individuals
13 legally credentialed in those states without examination; ((and))

14 (j) Define and approve any experience requirement for
15 certification; and

16 (k) Appoint members of the profession to serve in an ad hoc
17 advisory capacity to the secretary in carrying out this chapter. The
18 members will serve for designated times and provide advice on matters
19 specifically identified and requested by the secretary. The members
20 shall be compensated in accordance with RCW 43.03.220 and reimbursed
21 for travel expenses under RCW 43.03.040 and 43.03.060.

22 (2) The provisions of chapter 18.130 RCW shall govern the issuance
23 and denial of certificates, uncertified practice, and the disciplining
24 of persons certified under this chapter. The secretary shall be the
25 disciplining authority under this chapter.

26 **Sec. 525.** RCW 18.89.080 and 1991 c 3 s 231 are each amended to
27 read as follows:

28 The secretary, ad hoc committee members ((of the advisory
29 committee)), or individuals acting on their behalf are immune from suit
30 in any civil action based on any certification or disciplinary
31 proceedings, or other official acts performed in the course of their
32 duties.

33 NEW SECTION. **Sec. 526.** RCW 18.89.070 and 1991 c 3 s 230 & 1987 c
34 415 s 8 are each repealed.

35 **HEALTH CARE ASSISTANTS**

1 (3) Issue a certificate to an applicant who has met the
2 requirements for certification and deny a certificate to an applicant
3 who does not meet the minimum qualifications;

4 (4) Hire clerical, administrative, and investigative staff as
5 needed to implement and administer this chapter and hire individuals,
6 including those certified under this chapter, to serve as consultants
7 as necessary to implement and administer this chapter;

8 (5) Maintain the official departmental record of all applicants and
9 certificate holders;

10 (6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal
11 of a denial of certification based on the applicant's failure to meet
12 the minimum qualifications for certification;

13 (7) Investigate alleged violations of this chapter and consumer
14 complaints involving the practice of persons representing themselves as
15 certified dietitians or certified nutritionists;

16 (8) Issue subpoenas, statements of charges, statements of intent to
17 deny certifications, and orders and delegate in writing to a designee
18 the authority to issue subpoenas, statements of charges, and statements
19 on intent to deny certifications;

20 (9) Conduct disciplinary proceedings, impose sanctions, and assess
21 fines for violations of this chapter or any rules adopted under it in
22 accordance with chapter 34.05 RCW;

23 (10) Set all certification, renewal, and late renewal fees in
24 accordance with RCW 43.70.250; ((and))

25 (11) Set certification expiration dates and renewal periods for all
26 certifications under this chapter; and

27 (12) Appoint members of the profession to serve in an ad hoc
28 advisory capacity to the secretary in carrying out this chapter. The
29 members will serve for designated time and provide advice on matters
30 specifically identified and requested by the secretary. The members
31 shall be compensated in accordance with RCW 43.03.220 and reimbursed
32 for travel expenses under RCW 43.03.040 and 43.03.060. The secretary,
33 ad hoc committee members, or individuals acting in their behalf are
34 immune from suit in a civil action based on any certification or
35 disciplinary proceedings or other official acts performed in the course
36 of their duties.

37 **NEW SECTION. Sec. 529.** The secretary shall appoint a health
38 professions advisory committee consisting of one member from each

1 profession represented by an ad hoc advisory committee established
2 under RCW 18.06.080, 18.84.040, 18.89.050, and 18.138.070, and one
3 member of the health assistants profession as regulated under chapter
4 18.135 RCW, one member of the ocularists profession as regulated under
5 chapter 18.55 RCW, and one member of the nursing assistants profession
6 as regulated under chapter 18.88A RCW. The members shall serve three-
7 year terms. Of the initial members, two shall be appointed for a one-
8 year term, two shall be appointed for a two-year term, and the
9 remainder shall be appointed for three-year terms. Thereafter, members
10 shall be appointed for three-year terms. The committee shall advise
11 the secretary in matters concerning changes in the professions, health
12 care technologies, and health policies as requested by the secretary or
13 initiated by the committee. The committee members shall be eligible to
14 receive travel expenses under RCW 43.03.050 and 43.03.060.

15 NEW SECTION. **Sec. 530.** RCW 18.138.080 and 1991 c 3 s 285 & 1988
16 c 277 s 8 are each repealed.

17 **ATHLETIC TRAINERS**

18 NEW SECTION. **Sec. 601.** SHORT TITLE. This chapter may be known
19 and cited as the Washington Athletic Trainer's Act.

20 NEW SECTION. **Sec. 602.** LEGISLATIVE INTENT. The legislature finds
21 it necessary to regulate the practice of athletic training at the level
22 of certification in order to establish professional standards of
23 competence and conduct which assures the public health and safety.

24 NEW SECTION. **Sec. 603.** DEFINITIONS. Unless the context clearly
25 requires otherwise, the definitions in this section apply throughout
26 this chapter.

27 (1) "Athlete" means a person involved in sports or athletics in an
28 interscholastic, collegiate, amateur, recreational, or professional
29 setting.

30 (2) "Athletic injury" means an injury sustained by a person as a
31 result of that person's participation in sports, games, recreation,
32 exercise, or skill activities utilizing physical strength, flexibility,
33 agility, range of motion, speed, or stamina.

1 (3) "Athletic trainer" means a sports injury specialist who
2 practices athletic training as defined in this chapter under the
3 direction of an authorized health care practitioner through the
4 prevention, recognition, evaluation, management, disposition,
5 treatment, or rehabilitation of athletic injuries.

6 (4) "Athletic training" means the practice of prevention,
7 recognition, evaluation, management, disposition, treatment,
8 rehabilitation, physical conditioning, or physical reconditioning of
9 athletic injuries under the direction of an authorized health care
10 practitioner and including the use of physical modalities defined in
11 this chapter.

12 (5) "Authorized health care practitioner" means physicians,
13 osteopathic physicians, naturopaths, podiatric physicians and surgeons,
14 dentists, and, in clinical settings, physical therapists and
15 occupational therapists.

16 (6) "Department" means the department of health.

17 (7) "Physical modalities" means the use of physical, chemical,
18 electrical, and other noninvasive modalities including, but not limited
19 to heat, cold, air, light, water in any of its forms, sound, massage,
20 and therapeutic exercise.

21 (8) "Secretary" means the secretary of health or the secretary's
22 designee.

23 NEW SECTION. **Sec. 604.** CERTIFICATION. No person may represent
24 oneself as a certified athletic trainer nor use any title or
25 description of services that includes the words certified athletic
26 trainer or training without applying for certification, meeting the
27 required qualifications specified in this chapter, and being certified
28 by the department.

29 NEW SECTION. **Sec. 605.** QUALIFICATIONS FOR CERTIFICATION. (1) The
30 secretary shall issue a certificate to any applicant who demonstrates
31 to the secretary's satisfaction that the following requirements have
32 been met:

33 (a) The applicant is at least eighteen years of age;

34 (b) The applicant has graduated with a baccalaureate or post
35 graduate degree from an educational program with an athletic training
36 curriculum or an approved internship recognized by national athletic
37 training accrediting organizations and approved by the secretary;

1 (c) The applicant has successfully completed an approved
2 examination. The examination must test the applicant's knowledge of
3 the basic and clinical sciences relative to athletic training theory
4 and practice, including professional skills and judgment in the
5 utilization of techniques and methods; and

6 (d) The applicant has paid any required fee.

7 (2) The secretary shall establish by rule what constitutes adequate
8 proof of meeting the requirements in subsection (1) of this section.

9 (3) Applicants are subject to the grounds for denial of a
10 certificate or issuance of a conditional certificate under chapter
11 18.130 RCW.

12 NEW SECTION. **Sec. 606.** APPROVAL OF EDUCATIONAL PROGRAMS. The
13 secretary shall establish by rule the standards and procedures for
14 approval of educational programs in athletic training. The secretary
15 may utilize or contract with individuals or organizations having
16 expertise in the profession or in education to assist in the
17 evaluations. The secretary must establish by rule the standards and
18 procedures for revocation of approval of education programs. The
19 standards and procedures set must apply equally to educational programs
20 in the United States and in foreign jurisdictions. The secretary may
21 establish a fee for educational program evaluations.

22 NEW SECTION. **Sec. 607.** EXAMINATIONS. (1) The secretary shall
23 establish the date and location of examinations. Applicants who have
24 been found by the secretary to meet the other requirements for
25 certification must be scheduled for the next examination following the
26 filing of the application. The secretary shall establish by rule the
27 examination application deadline.

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

33 (3) The examination papers, all grading of the papers, and the
34 grading of any practical work must be preserved for a period of not
35 less than one year after the secretary has made and published the
36 decisions. All examinations must be conducted under fair and wholly
37 impartial methods.

1 (4) Any applicant failing to make the required grade in the first
2 examination may take up to three subsequent examinations as the
3 applicant desires upon prepaying a fee determined by the secretary
4 under RCW 43.70.250 for each subsequent examination. Upon failing four
5 examinations, the secretary may invalidate the original application and
6 require remedial education before the person may take future
7 examinations.

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

12 NEW SECTION. **Sec. 608.** APPLICATIONS. Applications for
13 credentialing must be submitted on forms provided by the secretary.
14 The secretary may require any information and documentation that
15 reasonably relates to the need to determine whether the applicant meets
16 the criteria for credentialing provided for in this chapter and chapter
17 18.130 RCW. Each applicant must pay a fee determined by the secretary
18 under RCW 43.70.250. The fee must accompany the application.

19 NEW SECTION. **Sec. 609.** WAIVER OF EXAMINATION FOR INITIAL
20 APPLICATIONS. The secretary shall waive the examination and credential
21 a person authorized to practice within the state of Washington if the
22 secretary determines that the person meets commonly accepted standards
23 of education and experience for the profession. This section applies
24 only to those individuals who file an application for waiver within one
25 year of the establishment of the authorized practice.

26 NEW SECTION. **Sec. 610.** POWERS OF SECRETARY. In addition to any
27 other authority provided by law, the secretary may:

28 (1) Adopt rules under chapter 34.05 RCW necessary to implement this
29 chapter;

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

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

34 (4) Register any applicants, and to issue certificates to
35 applicants who have met the education, training, and examination
36 requirements for certification and to deny a credential to applicants

1 who do not meet the minimum qualifications, except that proceedings
2 concerning the denial of certification based upon unprofessional
3 conduct or impairment shall be governed by the uniform disciplinary
4 act, chapter 18.130 RCW;

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

9 (6) Determine minimum education requirements and evaluate and
10 designate those educational programs from which graduation will be
11 accepted as proof of eligibility to take a qualifying examination for
12 applicants for certification;

13 (7) Prepare, grade, and administer, or determine the nature of, and
14 supervise the grading and administration of, examinations for
15 applicants for certification;

16 (8) Determine whether alternative methods of training are
17 equivalent to formal education, and establish forms, procedures, and
18 criteria for evaluation of an applicant's alternative training to
19 determine the applicant's eligibility to take any qualifying
20 examination;

21 (9) Determine which states have certification requirements
22 equivalent to those of this state, and issue certification to
23 individuals credentialed in those states without examinations;

24 (10) Define and approve any experience requirement for
25 certification;

26 (11) Implement and administer a program for consumer education;

27 (12) Adopt rules implementing a continuing competency program;

28 (13) Maintain the official department record of all applicants and
29 persons credentialed under this chapter; and

30 (14) Establish by rule the procedures for an appeal of an
31 examination failure.

32 The secretary shall consult with representative athletic trainer
33 organizations in implementing this chapter and in the adoption of any
34 rules. The consultation may take the form of an ad hoc committee.

35 NEW SECTION. **Sec. 611.** RECORD OF PROCEEDINGS. The secretary must
36 keep an official record of all proceedings. A part of the record must
37 consist of a register of all applicants for credentialing under this
38 chapter and the results of each application.

1 NEW SECTION. **Sec. 612.** ENDORSEMENT. An applicant holding a
2 credential in another state may be credentialed to practice in this
3 state without examination if the secretary determines that the other
4 state's credentialing standards are substantially equivalent to the
5 standards in this state.

6 NEW SECTION. **Sec. 613.** RENEWALS. The secretary shall establish
7 by rule the procedural requirements and fees for renewal of a
8 credential. Failure to renew shall invalidate the credential and all
9 privileges granted by the credential. If a certificate has lapsed for
10 a period longer than three years, the person shall demonstrate
11 competence to the satisfaction of the secretary by taking continuing
12 education courses, or meeting other standards determined by the
13 secretary.

14 NEW SECTION. **Sec. 614.** APPLICATION OF UNIFORM DISCIPLINARY ACT.
15 The Uniform Disciplinary Act, chapter 18.130 RCW, governs the issuance
16 and denial of certification, uncertified and unauthorized practice, and
17 the discipline of persons certified under this chapter. The secretary
18 shall be the disciplining authority under this chapter.

19 NEW SECTION. **Sec. 615.** (1) The provisions of this chapter
20 relating to the regulating of athletic trainers are exclusive. A
21 governmental subdivision of this state may not enact a law or rule
22 regulating athletic trainers, except as provided in subsections (2) and
23 (3) of this section.

24 (2) This section does not prevent a political subdivision of this
25 state from levying a business fee, business and occupation tax, or
26 other tax upon athletic trainers, if the fee or tax is levied by the
27 state on other types of businesses within its boundaries.

28 (3) This section does not prevent this state or a political
29 subdivision of this state from regulating athletic trainers with
30 respect to activities that are not regulated under this chapter.

31 **Sec. 616.** RCW 7.70.020 and 1985 c 326 s 27 are each amended to
32 read as follows:

33 INFORMED CONSENT. As used in this chapter "health care provider"
34 means either:

1 (1) A person licensed by this state to provide health care or
2 related services, including, but not limited to, a certified
3 acupuncturist, a physician, osteopathic physician, dentist, nurse,
4 optometrist, (~~pediatrist~~) podiatric physician and surgeon,
5 chiropractor, physical therapist, psychologist, pharmacist, optician,
6 physician's assistant, midwife, osteopathic physician's assistant,
7 nurse practitioner, (~~or~~) physician's trained mobile intensive care
8 paramedic, or athletic trainer, including, in the event such person is
9 deceased, his estate or personal representative;

10 (2) An employee or agent of a person described in part (1) above,
11 acting in the course and scope of his employment, including, in the
12 event such employee or agent is deceased, his estate or personal
13 representative; or

14 (3) An entity, whether or not incorporated, facility, or
15 institution employing one or more persons described in part (1) above,
16 including, but not limited to, a hospital, clinic, health maintenance
17 organization, or nursing home; or an officer, director, employee, or
18 agent thereof acting in the course and scope of his employment,
19 including in the event such officer, director, employee, or agent is
20 deceased, his estate or personal representative.

21 NEW SECTION. **Sec. 617.** Sections 601 through 615 of this act shall
22 constitute a new chapter in Title 18 RCW.

23 **UNIFORM DISCIPLINARY ACT**

24 **Sec. 701.** RCW 18.130.010 and 1991 c 332 s 1 are each amended to
25 read as follows:

26 It is the intent of the legislature to strengthen and consolidate
27 disciplinary and licensure procedures for the licensed health and
28 health-related professions and businesses by providing a uniform
29 disciplinary act with standardized procedures for the licensure of
30 health care professionals and the enforcement of laws the purpose of
31 which is to assure the public of the adequacy of professional
32 competence and conduct in the healing arts.

33 It is also the intent of the legislature that all health and
34 health-related professions newly credentialed by the state come under
35 the Uniform Disciplinary Act.

1 Further, the legislature declares that the addition of public
2 members on all health care commissions and boards can give both the
3 state and the public, which it has a statutory responsibility to
4 protect, assurances of accountability and confidence in the various
5 practices of health care.

6 **Sec. 702.** RCW 18.130.020 and 1989 1st ex.s. c 9 s 312 are each
7 amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Disciplining authority" means (~~((a) the board of medical~~
11 ~~examiners, the board of dental examiners, and the board of chiropractic~~
12 ~~examiners with respect to applicants for a license for the respective~~
13 ~~professions, (b) the medical disciplinary board, the dental~~
14 ~~disciplinary board, and the chiropractic disciplinary board with~~
15 ~~respect to holders of licenses for the respective professions, or (c))~~)
16 the agency (~~(or)~~), board, or commission having the authority to take
17 disciplinary action against a holder of, or applicant for, a
18 professional or business license upon a finding of a violation of this
19 chapter or a chapter specified under RCW 18.130.040.

20 (2) "Department" means the department of health.

21 (3) "Secretary" means the secretary of health or the secretary's
22 designee.

23 (4) "Board" means any of those boards specified in RCW 18.130.040.

24 (5) "Commission" means any of the commissions specified in RCW
25 18.130.040.

26 (6) "Unlicensed practice" means:

27 (a) Practicing a profession or operating a business identified in
28 RCW 18.130.040 without holding a valid, unexpired, unrevoked, and
29 unsuspended license to do so; or

30 (b) Representing to a consumer, through offerings, advertisements,
31 or use of a professional title or designation, that the individual is
32 qualified to practice a profession or operate a business identified in
33 RCW 18.130.040, without holding a valid, unexpired, unrevoked, and
34 unsuspended license to do so.

35 (~~((6))~~) (7) "Disciplinary action" means sanctions identified in RCW
36 18.130.160.

37 (~~((7))~~) (8) "Practice review" means an investigative audit of
38 records related to the complaint, without prior identification of

1 specific patient or consumer names, to determine whether unprofessional
2 conduct may have been committed.

3 ~~((+8+))~~ (9) "Health agency" means city and county health
4 departments and the department of health.

5 ~~((+9+))~~ (10) "License," "licensing," and "licensure" shall be
6 deemed equivalent to the terms "license," "licensing," "licensure,"
7 "certificate," "certification," and "registration" as those terms are
8 defined in RCW 18.120.020.

9 **Sec. 703.** RCW 18.130.040 and 1993 c 367 s 4 are each amended to
10 read as follows:

11 (1) This chapter applies only to the secretary and the boards and
12 commissions having jurisdiction in relation to the professions licensed
13 under the chapters specified in this section. This chapter does not
14 apply to any business or profession not licensed under the chapters
15 specified in this section.

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

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

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

20 (iii) Midwives licensed under chapter 18.50 RCW;

21 (iv) Ocularists licensed under chapter 18.55 RCW;

22 (v) Massage operators and businesses licensed under chapter 18.108
23 RCW;

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

25 (vii) Acupuncturists ~~((certified))~~ licensed under chapter 18.06
26 RCW;

27 (viii) Radiologic technologists certified and x-ray technicians
28 registered under chapter 18.84 RCW;

29 (ix) Respiratory care practitioners certified under chapter 18.89
30 RCW;

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

32 (xi) Persons registered as nursing pool operators under chapter
33 18.52C RCW;

34 (xii) Nursing assistants registered or certified under chapter
35 ~~((18-88A))~~ 18.-- (sections 401 through 431 of this act) RCW;

36 (xiii) Health care assistants certified under chapter 18.135 RCW;

37 (xiv) Dietitians and nutritionists certified under chapter 18.138
38 RCW;

1 (xv) Sex offender treatment providers certified under chapter
2 18.155 RCW; ~~((and))~~

3 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
4 18.71.205; and

5 (xvii) Athletic trainers certified under chapter 18.-- RCW
6 (sections 601 through 615 of this act).

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

9 (i) The podiatric medical board as established in chapter 18.22
10 RCW;

11 (ii) The chiropractic ~~((disciplinary board))~~ quality assurance
12 commission as established in chapter ~~((18.26 RCW governing licenses~~
13 ~~issued under chapter))~~ 18.25 RCW;

14 (iii) The dental ~~((disciplinary board))~~ quality assurance
15 commission as established in chapter 18.32 RCW;

16 (iv) The ~~((council))~~ board on fitting and dispensing of hearing
17 aids as established in chapter 18.35 RCW;

18 (v) The board of funeral directors and embalmers as established in
19 chapter 18.39 RCW;

20 (vi) The board of examiners for nursing home administrators as
21 established in chapter 18.52 RCW;

22 (vii) The optometry board as established in chapter 18.54 RCW
23 governing licenses issued under chapter 18.53 RCW;

24 (viii) The board of osteopathic medicine and surgery as established
25 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
26 18.57A RCW;

27 (ix) The board of pharmacy as established in chapter 18.64 RCW
28 governing licenses issued under chapters 18.64 and 18.64A RCW;

29 (x) The medical ~~((disciplinary board))~~ quality assurance commission
30 as established in chapter ~~((18.72))~~ 18.71 RCW governing licenses and
31 registrations issued under chapters 18.71 and 18.71A RCW;

32 (xi) The board of physical therapy as established in chapter 18.74
33 RCW;

34 (xii) The board of occupational therapy practice as established in
35 chapter 18.59 RCW;

36 (xiii) The ~~((board of practical))~~ nursing care quality assurance
37 commission as established in chapter ~~((18.78))~~ 18.-- RCW (sections 401
38 through 431 of this act) governing licenses issued under that chapter;

1 (xiv) The examining board of psychology and its disciplinary
2 committee as established in chapter 18.83 RCW;
3 (xv) (~~The board of nursing as established in chapter 18.88 RCW;~~
4 ~~and~~
5 ~~(xvi))~~) The veterinary board of governors as established in chapter
6 18.92 RCW.

7 (3) In addition to the authority to discipline license holders, the
8 disciplining authority has the authority to grant or deny licenses
9 based on the conditions and criteria established in this chapter and
10 the chapters specified in subsection (2) of this section. (~~However,~~
11 ~~the board of chiropractic examiners has authority over issuance and~~
12 ~~denial of licenses provided for in chapter 18.25 RCW, the board of~~
13 ~~dental examiners has authority over issuance and denial of licenses~~
14 ~~provided for in RCW 18.32.040, and the board of medical examiners has~~
15 ~~authority over issuance and denial of licenses and registrations~~
16 ~~provided for in chapters 18.71 and 18.71A RCW.)) This chapter also
17 governs any investigation, hearing, or proceeding relating to denial of
18 licensure or issuance of a license conditioned on the applicant's
19 compliance with an order entered pursuant to RCW 18.130.160 by the
20 disciplining authority.~~

21 NEW SECTION. **Sec. 704.** A new section is added to chapter 18.130
22 RCW to read as follows:

23 (1) The settlement process must be substantially uniform for
24 licensees governed by regulatory entities having authority under this
25 chapter.

26 (2) Disclosure of the identity of reviewing disciplining authority
27 members who participate in the settlement process is available to the
28 respondents or their legal representative upon request.

29 (3) The settlement conference will occur only if a settlement is
30 not achieved through written documents. Respondents will have the
31 opportunity to conference either by phone or in person with the
32 reviewing disciplining authority member if the respondent chooses.
33 Respondents may also have their attorney conference either by phone or
34 in person with the reviewing disciplining authority member without the
35 respondent being present personally.

36 (4) If the respondent wants to meet in person with the reviewing
37 disciplining authority member, he or she will travel to the reviewing

1 disciplinary authority member and have such a conference with the
2 attorney general in attendance either by phone or in person.

3 **Sec. 705.** RCW 18.130.300 and 1993 c 367 s 10 are each amended to
4 read as follows:

5 The secretary, members of the boards or commissions, or individuals
6 acting on their behalf are immune from suit in any action, civil or
7 criminal, based on any disciplinary proceedings or other official acts
8 performed in the course of their duties.

9 **CONFORMING AMENDMENTS**

10 **Sec. 801.** RCW 4.24.260 and 1975 1st ex.s. c 114 s 3 are each
11 amended to read as follows:

12 Physicians licensed under chapter 18.71 RCW(~~{,}~~), dentists
13 licensed under chapter 18.32 RCW, and pharmacists licensed under
14 chapter 18.64 RCW who, in good faith, file charges or present evidence
15 against another member of their profession based on the claimed
16 incompetency or gross misconduct of such person before the medical
17 (~~(disciplinary board)~~) quality assurance commission established under
18 chapter (~~(18.72)~~) 18.71 RCW, in a proceeding under chapter 18.32 RCW,
19 or to the board of pharmacy under RCW 18.64.160 shall be immune from
20 civil action for damages arising out of such activities.

21 **Sec. 802.** RCW 4.24.290 and 1985 c 326 s 26 are each amended to
22 read as follows:

23 In any civil action for damages based on professional negligence
24 against a hospital which is licensed by the state of Washington or
25 against the personnel of any such hospital, or against a member of the
26 healing arts including, but not limited to, an acupuncturist
27 (~~(certified)~~) licensed under chapter 18.06 RCW, a physician licensed
28 under chapter 18.71 RCW, an osteopathic physician licensed under
29 chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a
30 dentist licensed under chapter 18.32 RCW, a (~~(podiatrist)~~) podiatric
31 physician and surgeon licensed under chapter 18.22 RCW, or a nurse
32 licensed under (~~(chapters 18.78 or 18.88)~~) chapter 18.-- RCW (sections
33 401 through 431 of this act), the plaintiff in order to prevail shall
34 be required to prove by a preponderance of the evidence that the
35 defendant or defendants failed to exercise that degree of skill, care,

1 and learning possessed at that time by other persons in the same
2 profession, and that as a proximate result of such failure the
3 plaintiff suffered damages, but in no event shall the provisions of
4 this section apply to an action based on the failure to obtain the
5 informed consent of a patient.

6 **Sec. 803.** RCW 5.62.010 and 1987 c 198 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Registered nurse" means a registered nurse or advanced nurse
11 practitioner licensed under chapter ~~((18.88))~~ 18.-- RCW (sections 401
12 through 431 of this act).

13 (2) "Protocol" means a regimen to be carried out by a registered
14 nurse and prescribed by a licensed physician under chapter 18.71 RCW,
15 or a licensed osteopathic physician under chapter 18.57 RCW, which is
16 consistent with chapter ~~((18.88))~~ 18.-- RCW (sections 401 through 431
17 of this act) and the rules adopted under that chapter ~~((18.88-RCW))~~.

18 (3) "Primary care" means screening, assessment, diagnosis, and
19 treatment for the purpose of promotion of health and detection of
20 disease or injury, as authorized by chapter ~~((18.88))~~ 18.-- RCW
21 (sections 401 through 431 of this act) and the rules adopted under that
22 chapter ~~((18.88-RCW))~~.

23 **Sec. 804.** RCW 18.50.032 and 1981 c 53 s 10 are each amended to
24 read as follows:

25 Registered nurses and nurse midwives certified by the ~~((board of))~~
26 nursing care quality assurance commission under chapter ~~((18.88))~~ 18.--
27 RCW (sections 401 through 431 of this act) shall be exempt from the
28 requirements and provisions of this chapter.

29 **Sec. 805.** RCW 18.50.040 and 1991 c 3 s 106 are each amended to
30 read as follows:

31 (1) Any person seeking to be examined shall present to the
32 secretary, at least forty-five days before the commencement of the
33 examination, a written application on a form or forms provided by the
34 secretary setting forth under affidavit such information as the
35 secretary may require and proof the candidate has received a high
36 school degree or its equivalent; that the candidate is twenty-one years

1 of age or older; that the candidate has received a certificate or
2 diploma from a midwifery program accredited by the secretary and
3 licensed under chapter 28C.10 RCW, when applicable, or a certificate or
4 diploma in a foreign institution on midwifery of equal requirements
5 conferring the full right to practice midwifery in the country in which
6 it was issued. The diploma must bear the seal of the institution from
7 which the applicant was graduated. Foreign candidates must present
8 with the application a translation of the foreign certificate or
9 diploma made by and under the seal of the consulate of the country in
10 which the certificate or diploma was issued.

11 (2) The candidate shall meet the following conditions:

12 (a) Obtaining a minimum period of midwifery training for at least
13 three years including the study of the basic nursing skills that the
14 department shall prescribe by rule. However, if the applicant is a
15 registered nurse or licensed practical nurse under chapter (~~18.88 RCW,~~
16 ~~a licensed practical nurse under chapter 18.78 RCW~~) 18.-- RCW
17 (sections 401 through 431 of this act), or has had previous nursing
18 education or practical midwifery experience, the required period of
19 training may be reduced depending upon the extent of the candidate's
20 qualifications as determined under rules adopted by the department. In
21 no case shall the training be reduced to a period of less than two
22 years.

23 (b) Meeting minimum educational requirements which shall include
24 studying obstetrics; neonatal pediatrics; basic sciences; female
25 reproductive anatomy and physiology; behavioral sciences; childbirth
26 education; community care; obstetrical pharmacology; epidemiology;
27 gynecology; family planning; genetics; embryology; neonatology; the
28 medical and legal aspects of midwifery; nutrition during pregnancy and
29 lactation; breast feeding; nursing skills, including but not limited to
30 injections, administering intravenous fluids, catheterization, and
31 aseptic technique; and such other requirements prescribed by rule.

32 (c) For a student midwife during training, undertaking the care of
33 not less than fifty women in each of the prenatal, intrapartum, and
34 early postpartum periods, but the same women need not be seen through
35 all three periods. A student midwife may be issued a permit upon the
36 satisfactory completion of the requirements in (a), (b), and (c) of
37 this subsection and the satisfactory completion of the licensure
38 examination required by RCW 18.50.060. The permit permits the student
39 midwife to practice under the supervision of a midwife licensed under

1 this chapter, a physician or a certified nurse-midwife licensed under
2 the authority of chapter ~~((18.88))~~ 18.-- RCW (sections 401 through 431
3 of this act). The permit shall expire within one year of issuance and
4 may be extended as provided by rule.

5 (d) Observing an additional fifty women in the intrapartum period
6 before the candidate qualifies for a license.

7 (3) Notwithstanding subsections (1) and (2) of this section, the
8 department shall adopt rules to provide credit toward the educational
9 requirements for licensure before July 1, 1988, of nonlicensed
10 midwives, including rules to provide:

11 (a) Credit toward licensure for documented deliveries;

12 (b) The substitution of relevant experience for classroom time; and

13 (c) That experienced lay midwives may sit for the licensing
14 examination without completing the required coursework.

15 The training required under this section shall include training in
16 either hospitals or alternative birth settings or both with particular
17 emphasis on learning the ability to differentiate between low-risk and
18 high-risk pregnancies.

19 **Sec. 806.** RCW 18.50.140 and 1991 c 3 s 114 are each amended to
20 read as follows:

21 The midwifery advisory committee is created.

22 The committee shall be composed of one physician who is a
23 practicing obstetrician; one practicing physician; one certified nurse
24 midwife licensed under chapter ~~((18.88))~~ 18.-- RCW (sections 401
25 through 431 of this act); three midwives licensed under this chapter;
26 and one public member, who shall have no financial interest in the
27 rendering of health services. The committee may seek other consultants
28 as appropriate, including persons trained in childbirth education and
29 perinatology or neonatology.

30 The members are appointed by the secretary and serve at the
31 pleasure of the secretary but may not serve more than five years
32 consecutively. The terms of office shall be staggered. Members of the
33 committee shall be reimbursed for travel expenses as provided in RCW
34 43.03.050 and 43.03.060 (~~(as now or hereafter amended)~~).

35 **Sec. 807.** RCW 18.50.115 and 1991 c 3 s 112 are each amended to
36 read as follows:

1 A midwife licensed under this chapter may obtain and administer
2 prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho
3 immune globulin (human), and local anesthetic and may administer such
4 other drugs or medications as prescribed by a physician. A pharmacist
5 who dispenses such drugs to a licensed midwife shall not be liable for
6 any adverse reactions caused by any method of use by the midwife.

7 The secretary, after consultation with representatives of the
8 midwife advisory committee, the board of pharmacy, and the ~~((board of))~~
9 medical ~~((examiners))~~ quality assurance commission, may ~~((issue~~
10 ~~regulations which))~~ adopt rules that authorize licensed midwives to
11 purchase and use legend drugs and devices in addition to the drugs
12 authorized in this chapter.

13 **Sec. 808.** RCW 18.88A.020 and 1991 c 16 s 2 are each amended to
14 read as follows:

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

17 (1) "Department" means the department of health.

18 (2) "Secretary" means the secretary of health.

19 (3) "~~((Board))~~ Commission" means the Washington ~~((state board of))~~
20 nursing care quality assurance commission.

21 (4) "Nursing assistant" means an individual, regardless of title,
22 who, under the direction and supervision of a registered nurse or
23 licensed practical nurse, assists in the delivery of nursing and
24 nursing-related activities to patients in a health care facility. The
25 two levels of nursing assistants are (a) "nursing assistant-certified,"
26 an individual certified under this chapter, (b) "nursing assistant-
27 registered," an individual registered under this chapter.

28 (5) ~~((("Committee" means the Washington state nursing assistant~~
29 ~~advisory committee.~~

30 ~~(6))~~ "Approved training program" means a nursing assistant-
31 certified training program approved by the ~~((board))~~ commission. For
32 community college, vocational-technical institutes, skill centers, and
33 secondary school as defined in chapter 28B.50 RCW, nursing assistant-
34 certified training programs shall be approved by the ~~((board))~~
35 commission in cooperation with the board for community and technical
36 colleges ~~((education))~~ or the superintendent of public instruction.

37 ~~((+7))~~ (6) "Health care facility" means a nursing home, hospital,
38 hospice care facility, home health care agency, hospice agency, or

1 other entity for delivery of health care services as defined by the
2 (~~board~~) commission.

3 (~~(+8)~~) (7) "Competency evaluation" means the measurement of an
4 individual's knowledge and skills as related to safe, competent
5 performance as a nursing assistant.

6 **Sec. 809.** RCW 18.88A.030 and 1991 c 16 s 3 are each amended to
7 read as follows:

8 (1) A nursing assistant may assist in the care of individuals as
9 delegated by and under the direction and supervision of a licensed
10 (registered) nurse or licensed practical nurse.

11 (2) A health care facility shall not assign a nursing assistant-
12 registered to provide care until the nursing assistant-registered has
13 demonstrated skills necessary to perform competently all assigned
14 duties and responsibilities.

15 (3) Nothing in this chapter shall be construed to confer on a
16 nursing assistant the authority to administer medication or to practice
17 as a licensed (registered) nurse (~~(as defined in chapter 18.88 RCW)~~) or
18 licensed practical nurse as defined in chapter (~~(18.78)~~) 18.-- RCW
19 (sections 401 through 431 of this act).

20 (4) Certification is voluntary for nursing assistants working in
21 health care facilities other than nursing homes unless otherwise
22 required by state or federal law or regulation.

23 (5) The (~~board of nursing shall have the authority to~~) commission
24 may adopt rules to implement the provisions of this chapter.

25 **Sec. 810.** RCW 18.88A.060 and 1991 c 16 s 8 are each amended to
26 read as follows:

27 In addition to any other authority provided by law, the (~~state~~
28 ~~board of nursing has the authority to~~) commission may:

29 (1) Determine minimum education requirements and approve training
30 programs;

31 (2) Prepare, grade, and administer, or determine the nature of, and
32 supervise the grading and administration of, examinations of training
33 and competency for applicants for certification;

34 (3) Determine whether alternative methods of training are
35 equivalent to approved training programs, and establish forms,
36 procedures, and criteria for evaluation of an applicant's alternative

1 training to determine the applicant's eligibility to take any
2 qualifying examination for certification;

3 (4) Define and approve any experience requirement for
4 certification;

5 (5) Adopt rules implementing a continuing competency evaluation
6 program;

7 (6) Adopt rules to enable it to carry into effect the provisions of
8 this chapter.

9 **Sec. 811.** RCW 18.88A.080 and 1991 c 16 s 10 are each amended to
10 read as follows:

11 (1) The secretary shall issue a registration to any applicant who
12 pays any applicable fees and submits, on forms provided by the
13 secretary, the applicant's name, address, and other information as
14 determined by the secretary, provided there are no grounds for denial
15 of registration or issuance of a conditional registration under this
16 chapter or chapter 18.130 RCW.

17 (2) Applicants must file an application with the ((board))
18 commission for registration within three days of employment.

19 **Sec. 812.** RCW 18.88A.085 and 1991 c 16 s 11 are each amended to
20 read as follows:

21 (1) After January 1, 1990, the secretary shall issue a certificate
22 to any applicant who demonstrates to the secretary's satisfaction that
23 the following requirements have been met:

24 (a) Completion of an approved training program or successful
25 completion of alternate training meeting established criteria approved
26 by the ((board)) commission; and

27 (b) Successful completion of a competency evaluation.

28 (2) In addition, applicants shall be subject to the grounds for
29 denial of certification under chapter 18.130 RCW.

30 **Sec. 813.** RCW 18.88A.090 and 1991 c 3 s 225 are each amended to
31 read as follows:

32 (1) The date and location of examinations shall be established by
33 the secretary. Applicants who have been found by the secretary to meet
34 the requirements for certification shall be scheduled for the next
35 examination following the filing of the application. The secretary
36 shall establish by rule the examination application deadline.

1 (2) The ((~~board~~)) commission shall examine each applicant, by a
2 written or oral and a manual component of competency evaluation.
3 Examinations shall be limited to the purpose of determining whether the
4 applicant possesses the minimum skill and knowledge necessary to
5 practice competently.

6 (3) The examination papers, all grading of the papers, and the
7 grading of skills demonstration shall be preserved for a period of not
8 less than one year after the ((~~board~~)) commission has made and
9 published the decisions. All examinations shall be conducted under
10 fair and wholly impartial methods.

11 (4) Any applicant failing to make the required grade in the first
12 examination may take up to three subsequent examinations as the
13 applicant desires upon prepaying a fee determined by the secretary
14 under RCW 43.70.250 for each subsequent examination. Upon failing four
15 examinations, the secretary may invalidate the original application and
16 require such remedial education before the person may take future
17 examinations.

18 (5) The ((~~board~~)) commission may approve an examination prepared or
19 administered by a private testing agency or association of licensing
20 agencies for use by an applicant in meeting the credentialing
21 requirements.

22 **Sec. 814.** RCW 18.88A.100 and 1991 c 16 s 12 and 1991 c 3 s 226 are
23 each reenacted and amended to read as follows:

24 The secretary shall waive the competency evaluation and certify a
25 person to practice within the state of Washington if the ((~~board~~))
26 commission determines that the person meets commonly accepted standards
27 of education and experience for the nursing assistants. This section
28 applies only to those individuals who file an application for waiver by
29 December 31, 1991.

30 **Sec. 815.** RCW 18.88A.130 and 1991 c 16 s 15 are each amended to
31 read as follows:

32 The secretary shall establish by rule the procedural requirements
33 and fees for renewal of a registration or certificate. Failure to
34 renew shall invalidate the credential and all privileges granted by the
35 credential. If a certificate has lapsed for a period longer than three
36 years, the person shall demonstrate competence to the satisfaction of

1 the ((board)) commission by taking continuing education courses, or
2 meeting other standards determined by the ((board)) commission.

3 **Sec. 816.** RCW 18.89.040 and 1987 c 415 s 5 are each amended to
4 read as follows:

5 A respiratory care practitioner certified under this chapter is
6 employed in the treatment, management, diagnostic testing,
7 rehabilitation, and care of patients with deficiencies and
8 abnormalities which affect the cardiopulmonary system and associated
9 aspects of other systems, and is under the direct order and under the
10 qualified medical direction of a physician. The practice of
11 respiratory care includes, but is not limited to:

12 (1) The use and administration of medical gases, exclusive of
13 general anesthesia;

14 (2) The use of air and oxygen administering apparatus;

15 (3) The use of humidification and aerosols;

16 (4) The administration of prescribed pharmacologic agents related
17 to respiratory care;

18 (5) The use of mechanical or physiological ventilatory support;

19 (6) Postural drainage, chest percussion, and vibration;

20 (7) Bronchopulmonary hygiene;

21 (8) Cardiopulmonary resuscitation as it pertains to establishing
22 airways and external cardiac compression;

23 (9) The maintenance of natural and artificial airways and
24 insertion, without cutting tissues, of artificial airways, as ordered
25 by the attending physician;

26 (10) Diagnostic and monitoring techniques such as the measurement
27 of cardiorespiratory volumes, pressures, and flows; and

28 (11) The drawing and analyzing of arterial, capillary, and mixed
29 venous blood specimens as ordered by the attending physician or an
30 advanced registered nurse practitioner as authorized by the ((board
31 of)) nursing care quality assurance commission under chapter ((18.88))
32 18.-- RCW (sections 401 through 431 of this act).

33 **Sec. 817.** RCW 18.100.140 and 1987 c 447 s 16 are each amended to
34 read as follows:

35 Nothing in this chapter shall authorize a director, officer,
36 shareholder, agent or employee of a corporation organized under this
37 chapter, or a corporation itself organized under this chapter, to do or

1 perform any act which would be illegal, unethical or unauthorized
2 conduct under the provisions of the following acts: (1) (~~Medical~~
3 ~~disciplinary act~~) Physicians and surgeons, chapter (~~18.72~~) 18.71
4 RCW; (2) anti-rebating act, chapter 19.68 RCW; (3) state bar act,
5 chapter 2.48 RCW; (4) professional accounting act, chapter 18.04 RCW;
6 (5) professional architects act, chapter 18.08 RCW; (6) professional
7 auctioneers act, chapter 18.11 RCW; (7) cosmetologists, barbers, and
8 manicurists, chapter 18.16 RCW; (8) boarding homes act, chapter 18.20
9 RCW; (9) (~~podiatry~~) podiatric medicine and surgery, chapter 18.22
10 RCW; (10) chiropractic act, chapter 18.25 RCW; (11) registration of
11 contractors, chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28
12 RCW; (13) dental hygienist act, chapter 18.29 RCW; (14) dentistry,
13 chapter 18.32 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16)
14 naturopathic (~~act~~) physicians, chapter 18.36A RCW; (17) embalmers and
15 funeral directors, chapter 18.39 RCW; (18) engineers and land
16 surveyors, chapter 18.43 RCW; (19) escrow agents registration act,
17 chapter 18.44 RCW; (20) maternity homes, chapter 18.46 RCW; (21)
18 midwifery, chapter 18.50 RCW; (22) nursing homes, chapter 18.51 RCW;
19 (23) optometry, chapter 18.53 RCW; (24) (~~osteopathy~~) osteopathic
20 physicians and surgeons, chapter 18.57 RCW; (25) pharmacists, chapter
21 18.64 RCW; (26) physical therapy, chapter 18.74 RCW; (27) registered
22 nurses, advanced registered nurse practitioners, and practical nurses,
23 chapter (~~18.78~~) 18.-- RCW (sections 401 through 431 of this act);
24 (28) psychologists, chapter 18.83 RCW; (29) real estate brokers and
25 salesmen, chapter 18.85 RCW; (30) (~~registered professional nurses,~~
26 ~~chapter 18.88 RCW;~~ (~~31~~)) veterinarians, chapter 18.92 RCW.

27 **Sec. 818.** RCW 18.120.020 and 1989 c 300 s 14 are each amended to
28 read as follows:

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

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

36 (2) "Certificate" and "certification" mean a voluntary process by
37 which a statutory regulatory entity grants recognition to an individual
38 who (a) has met certain prerequisite qualifications specified by that

1 regulatory entity, and (b) may assume or use "certified" in the title
2 or designation to perform prescribed health professional tasks.

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

9 (4) "Health professions" means and includes the following health
10 and health-related licensed or regulated professions and occupations:
11 (~~(Podiatry)~~) Podiatric medicine and surgery under chapter 18.22 RCW;
12 chiropractic under chapter ~~(§)~~ 18.25 ~~((and 18.26 RCW))~~; dental hygiene
13 under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing
14 opticians under chapter 18.34 RCW; hearing aids under chapter 18.35
15 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral
16 directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW;
17 nursing home administration under chapter 18.52 RCW; optometry under
18 chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW;
19 osteopathy and osteopathic medicine and surgery under chapters 18.57
20 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
21 under chapters 18.71~~((7))~~ and 18.71A~~((7, and 18.72))~~ RCW; emergency
22 medicine under chapter 18.73 RCW; physical therapy under chapter 18.74
23 RCW; practical nurses under chapter ~~((18.78))~~ 18.-- RCW (sections 401
24 through 431 of this act); psychologists under chapter 18.83 RCW;
25 registered nurses under chapter ~~((18.88))~~ 18.-- RCW (sections 401
26 through 431 of this act); occupational therapists licensed ~~((pursuant~~
27 ~~to))~~ under chapter 18.59 RCW; respiratory care practitioners certified
28 under chapter 18.89 RCW; veterinarians and animal technicians under
29 chapter 18.92 RCW; health care assistants under chapter 18.135 RCW;
30 massage practitioners under chapter 18.108 RCW; acupuncturists
31 ~~((certified))~~ licensed under chapter 18.06 RCW; persons registered or
32 certified under chapter 18.19 RCW; dietitians and nutritionists
33 certified by chapter 18.138 RCW; radiologic technicians under chapter
34 18.84 RCW; and nursing assistants registered or certified under chapter
35 18.88A RCW.

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

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

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

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

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

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

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

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

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

1 **Sec. 819.** RCW 18.135.020 and 1991 c 3 s 272 are each amended to
2 read as follows:

3 As used in this chapter:

4 (1) "Secretary" means the secretary of health.

5 (2) "Health care assistant" means an unlicensed person who assists
6 a licensed health care practitioner in providing health care to
7 patients pursuant to this chapter.

8 (3) "Health care practitioner" means:

9 (a) A physician licensed under chapter 18.71 RCW;

10 (b) An osteopathic physician or surgeon licensed under chapter
11 18.57 RCW; or

12 (c) Acting within the scope of their respective licensure, a
13 (~~podiatrist~~) podiatric physician and surgeon licensed under chapter
14 18.22 RCW or a registered nurse or advanced registered nurse
15 practitioner licensed under chapter (~~18.88~~) 18.-- RCW (sections 401
16 through 431 of this act).

17 (4) "Supervision" means supervision of procedures permitted
18 pursuant to this chapter by a health care practitioner who is
19 physically present and is immediately available in the facility during
20 the administration of injections, as defined in this chapter, but need
21 not be present during procedures to withdraw blood.

22 (5) "Health care facility" means any hospital, hospice care center,
23 licensed or certified health care facility, health maintenance
24 organization regulated under chapter 48.46 RCW, federally qualified
25 health maintenance organization, renal dialysis center or facility
26 federally approved under 42 C.F.R. 405.2100, blood bank federally
27 licensed under 21 C.F.R. 607, or clinical laboratory certified under 20
28 C.F.R. 405.1301-16.

29 (6) "Delegation" means direct authorization granted by a licensed
30 health care practitioner to a health care assistant to perform the
31 functions authorized in this chapter which fall within the scope of
32 practice of the delegator and which are not within the scope of
33 practice of the delegatee.

34 **Sec. 820.** RCW 28A.210.260 and 1982 c 195 s 1 are each amended to
35 read as follows:

36 Public school districts and private schools which conduct any of
37 grades kindergarten through the twelfth grade may provide for the
38 administration of oral medication of any nature to students who are in

1 the custody of the school district or school at the time of
2 administration, but are not required to do so by this section, subject
3 to the following conditions:

4 (1) The board of directors of the public school district or the
5 governing board of the private school or, if none, the chief
6 administrator of the private school shall adopt policies which address
7 the designation of employees who may administer oral medications to
8 students, the acquisition of parent requests and instructions, and the
9 acquisition of dentist and physician requests and instructions
10 regarding students who require medication for more than fifteen
11 consecutive school days, the identification of the medication to be
12 administered, the means of safekeeping medications with special
13 attention given to the safeguarding of legend drugs as defined in
14 chapter 69.41 RCW, and the means of maintaining a record of the
15 administration of such medication;

16 (2) The board of directors shall seek advice from one or more
17 licensed physicians or nurses in the course of developing the foregoing
18 policies;

19 (3) The public school district or private school is in receipt of
20 a written, current and unexpired request from a parent, or a legal
21 guardian, or other person having legal control over the student to
22 administer the medication to the student;

23 (4) The public school district or the private school is in receipt
24 of (a) a written, current and unexpired request from a licensed
25 physician or dentist for administration of the medication, as there
26 exists a valid health reason which makes administration of such
27 medication advisable during the hours when school is in session or the
28 hours in which the student is under the supervision of school
29 officials, and (b) written, current and unexpired instructions from
30 such physician or dentist regarding the administration of prescribed
31 medication to students who require medication for more than fifteen
32 consecutive work days;

33 (5) The medication is administered by an employee designated by or
34 pursuant to the policies adopted pursuant to subsection (1) of this
35 section and in substantial compliance with the prescription of a
36 physician or dentist or the written instructions provided pursuant to
37 subsection (4) of this section;

1 (6) The medication is first examined by the employee administering
2 the same to determine in his or her judgment that it appears to be in
3 the original container and to be properly labeled; and

4 (7) The board of directors shall designate a professional person
5 licensed pursuant to chapter 18.71 RCW or (~~18.88~~) chapter 18.-- RCW
6 (sections 401 through 431 of this act) as it applies to registered
7 nurses and advanced registered nurse practitioners, to train and
8 supervise the designated school district personnel in proper medication
9 procedures.

10 **Sec. 821.** RCW 28A.210.280 and 1988 c 48 s 2 are each amended to
11 read as follows:

12 (1) Public school districts and private schools that offer classes
13 for any of grades kindergarten through twelve may provide for clean,
14 intermittent bladder catheterization of students, or assisted self-
15 catheterization of students pursuant to (~~RCW 18.88.295:—PROVIDED,~~
16 ~~That~~) section 429 of this act, if the catheterization is provided for
17 in substantial compliance with:

18 (a) Rules adopted by the state (~~board of~~) nursing care quality
19 assurance commission and the instructions of a registered nurse or
20 advanced registered nurse practitioner issued under such rules; and

21 (b) Written policies of the school district or private school which
22 shall be adopted in order to implement this section and shall be
23 developed in accordance with such requirements of chapters 41.56 and
24 41.59 RCW as may be applicable.

25 (2) This section does not require school districts to provide
26 intermittent bladder catheterization of students.

27 **Sec. 822.** RCW 28A.210.290 and 1990 c 33 s 209 are each amended to
28 read as follows:

29 (1) In the event a school employee provides for the catheterization
30 of a student pursuant to RCW (~~18.88.295~~) 18.--.--- (section 429 of
31 this act) and 28A.210.280 in substantial compliance with (a) rules
32 adopted by the state (~~board of~~) nursing care quality assurance
33 commission and the instructions of a registered nurse or advanced
34 registered nurse practitioner issued under such rules, and (b) written
35 policies of the school district or private school, then the employee,
36 the employee's school district or school of employment, and the members
37 of the governing board and chief administrator thereof shall not be

1 liable in any criminal action or for civil damages in their individual,
2 marital, governmental, corporate, or other capacity as a result of
3 providing for the catheterization.

4 (2) Providing for the catheterization of any student pursuant to
5 RCW ((~~18.88.295~~)) 18.--.--- (section 429 of this act) and 28A.210.280
6 may be discontinued by a public school district or private school and
7 the school district or school, its employees, its chief administrator,
8 and members of its governing board shall not be liable in any criminal
9 action or for civil damages in their individual, marital, governmental,
10 corporate, or other capacity as a result of the discontinuance:
11 PROVIDED, That the chief administrator of the public school district or
12 private school, or his or her designee, has first provided actual
13 notice orally or in writing in advance of the date of discontinuance to
14 a parent or legal guardian of the student or other person having legal
15 control over the student: PROVIDED FURTHER, That the public school
16 district otherwise provides for the catheterization of the student to
17 the extent required by federal or state law.

18 **Sec. 823.** RCW 28C.10.030 and 1990 c 188 s 6 are each amended to
19 read as follows:

20 This chapter does not apply to:

21 (1) Bona fide trade, business, professional, or fraternal
22 organizations sponsoring educational programs primarily for that
23 organization's membership or offered by that organization on a no-fee
24 basis;

25 (2) Entities offering education that is exclusively avocational or
26 recreational;

27 (3) Education not requiring payment of money or other consideration
28 if this education is not advertised or promoted as leading toward
29 educational credentials;

30 (4) Entities that are established, operated, and governed by this
31 state or its political subdivisions under Title 28A, 28B, or 28C RCW;

32 (5) Degree-granting programs in compliance with the rules of the
33 higher education coordinating board;

34 (6) Any other entity to the extent that it has been exempted from
35 some or all of the provisions of this chapter under RCW 28C.10.100;

36 (7) Entities not otherwise exempt that are of a religious
37 character, but only as to those educational programs exclusively

1 devoted to religious or theological objectives and represented
2 accurately in institutional catalogs or other official publications;

3 (8) Entities offering only courses certified by the federal
4 aviation administration;

5 (9) Barber and cosmetology schools licensed under chapter 18.16
6 RCW;

7 (10) Entities which only offer courses approved to meet the
8 continuing education requirements for licensure under chapter(~~(§)~~)
9 18.04, (~~(18.78, 18.88)~~) 18.-- (sections 401 through 431 of this act),
10 or 48.17 RCW; and

11 (11) Entities not otherwise exempt offering only workshops or
12 seminars lasting no longer than three calendar days.

13 **Sec. 824.** RCW 41.05.075 and 1993 c 386 s 10 are each amended to
14 read as follows:

15 (1) The administrator shall provide benefit plans designed by the
16 board through a contract or contracts with insuring entities, through
17 self-funding, self-insurance, or other methods of providing insurance
18 coverage authorized by RCW 41.05.140.

19 (2) The administrator shall establish a contract bidding process
20 that encourages competition among insuring entities, is timely to the
21 state budgetary process, and sets conditions for awarding contracts to
22 any insuring entity.

23 (3) The administrator shall establish a requirement for review of
24 utilization and financial data from participating insuring entities on
25 a quarterly basis.

26 (4) The administrator shall centralize the enrollment files for all
27 employee and retired or disabled school employee health plans offered
28 under chapter 41.05 RCW and develop enrollment demographics on a plan-
29 specific basis.

30 (5) The administrator shall establish methods for collecting,
31 analyzing, and disseminating to covered individuals information on the
32 cost and quality of services rendered by individual health care
33 providers.

34 (6) All claims data shall be the property of the state. The
35 administrator may require of any insuring entity that submits a bid to
36 contract for coverage all information deemed necessary to fulfill the
37 administrator's duties as set forth in this chapter.

1 (7) All contracts with insuring entities for the provision of
2 health care benefits shall provide that the beneficiaries of such
3 benefit plans may use on an equal participation basis the services of
4 practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53,
5 18.57, 18.71, 18.74, 18.83, and ~~((18.88 RCW))~~ 18.-- RCW (sections 401
6 through 431 of this act), as it applies to registered nurses and
7 advanced registered nurse practitioners. However, nothing in this
8 subsection may preclude the administrator from establishing appropriate
9 utilization controls approved pursuant to RCW 41.05.065(2) (a)~~((i))~~,
10 (b), and (d).

11 (8) Beginning in January 1990, and each January thereafter, the
12 administrator shall publish and distribute to each school district a
13 description of health care benefit plans available through the
14 authority and the estimated cost if school district employees were
15 enrolled.

16 **Sec. 825.** RCW 41.05.180 and 1989 c 338 s 5 are each amended to
17 read as follows:

18 Each health plan offered to public employees and their covered
19 dependents under this chapter that is not subject to the provisions of
20 Title 48 RCW and is established or renewed after January 1, 1990, and
21 that provides benefits for hospital or medical care shall provide
22 benefits for screening or diagnostic mammography services, provided
23 that such services are delivered upon the recommendation of the
24 patient's physician or advanced registered nurse practitioner as
25 authorized by the ~~((board of))~~ nursing care quality assurance
26 commission pursuant to chapter ~~((18.88))~~ 18.-- RCW (sections 401
27 through 431 of this act) or physician~~((s))~~ assistant pursuant to
28 chapter 18.71A RCW.

29 This section shall not be construed to prevent the application of
30 standard health plan provisions applicable to other benefits such as
31 deductible or copayment provisions. This section does not limit the
32 authority of the state health care authority to negotiate rates and
33 contract with specific providers for the delivery of mammography
34 services. This section shall not apply to medicare supplement policies
35 or supplemental contracts covering a specified disease or other limited
36 benefits.

1 **Sec. 826.** RCW 42.17.316 and 1987 c 416 s 7 are each amended to
2 read as follows:

3 The disclosure requirements of this chapter shall not apply to
4 records of the committee obtained in an action under RCW 18.72.301
5 through 18.72.321 (as recodified by this act).

6 **Sec. 827.** RCW 43.70.220 and 1989 1st ex.s. c 9 s 301 are each
7 amended to read as follows:

8 The powers and duties of the department of licensing and the
9 director of licensing under the following statutes are hereby
10 transferred to the department of health and the secretary of health:
11 Chapters 18.06, 18.19, 18.22, 18.25, ~~((18.26-))~~ 18.29, 18.32, 18.34,
12 18.35, 18.36A, 18.50, 18.52, ~~((18.52A, 18.52B-))~~ 18.52C, 18.53, 18.54,
13 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, ~~((18.72-))~~ 18.74,
14 ~~((18.78-))~~ 18.83, 18.84, ~~((18.88))~~ 18.-- (sections 401 through 431 of
15 this act), 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More
16 specifically, the health professions regulatory programs and services
17 presently administered by the department of licensing are hereby
18 transferred to the department of health.

19 **Sec. 828.** RCW 48.20.393 and 1989 c 338 s 1 are each amended to
20 read as follows:

21 Each disability insurance policy issued or renewed after January 1,
22 1990, that provides coverage for hospital or medical expenses shall
23 provide coverage for screening or diagnostic mammography services,
24 provided that such services are delivered upon the recommendation of
25 the patient's physician or advanced registered nurse practitioner as
26 authorized by the ~~((board of))~~ nursing care quality assurance
27 commission pursuant to chapter ~~((18.88))~~ 18.-- RCW (sections 401
28 through 431 of this act) or physician~~((s))~~ assistant pursuant to
29 chapter 18.71A RCW.

30 This section shall not be construed to prevent the application of
31 standard policy provisions applicable to other benefits such as
32 deductible or copayment provisions. This section does not limit the
33 authority of an insurer to negotiate rates and contract with specific
34 providers for the delivery of mammography services. This section shall
35 not apply to medicare supplement policies or supplemental contracts
36 covering a specified disease or other limited benefits.

1 **Sec. 829.** RCW 48.20.411 and 1973 1st ex.s. c 188 s 3 are each
2 amended to read as follows:

3 Notwithstanding any provision of any disability insurance contract
4 as provided for in this chapter, benefits shall not be denied
5 thereunder for any health care service performed by a holder of a
6 license for registered nursing practice or advanced registered nursing
7 practice issued pursuant to chapter ((18.88)) 18.-- RCW (sections 401
8 through 431 of this act) if (1) the service performed was within the
9 lawful scope of such person's license, and (2) such contract would have
10 provided benefits if such service had been performed by a holder of a
11 license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That
12 no provision of chapter 18.71 RCW shall be asserted to deny benefits
13 under this section.

14 The provisions of this section are intended to be remedial and
15 procedural to the extent they do not impair the obligation of any
16 existing contract.

17 **Sec. 830.** RCW 48.21.141 and 1973 1st ex.s. c 188 s 4 are each
18 amended to read as follows:

19 Notwithstanding any provision of any group disability insurance
20 contract or blanket disability insurance contract as provided for in
21 this chapter, benefits shall not be denied thereunder for any health
22 service performed by a holder of a license for registered nursing
23 practice or advanced registered nursing practice issued pursuant to
24 chapter ((18.88)) 18.-- RCW (sections 401 through 431 of this act) if
25 (1) the service performed was within the lawful scope of such person's
26 license, and (2) such contract would have provided benefits if such
27 service had been performed by a holder of a license issued pursuant to
28 chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter
29 18.71 RCW shall be asserted to deny benefits under this section.

30 The provisions of this section are intended to be remedial and
31 procedural to the extent they do not impair the obligation of any
32 existing contract.

33 **Sec. 831.** RCW 48.21.225 and 1989 c 338 s 2 are each amended to
34 read as follows:

35 Each group disability insurance policy issued or renewed after
36 January 1, 1990, that provides coverage for hospital or medical
37 expenses shall provide coverage for screening or diagnostic mammography

1 services, provided that such services are delivered upon the
2 recommendation of the patient's physician or advanced registered nurse
3 practitioner as authorized by the (~~board of~~) nursing care quality
4 assurance commission pursuant to chapter (~~18.88~~) 18.-- RCW (sections
5 401 through 431 of this act) or physician(~~s~~) assistant pursuant to
6 chapter 18.71A RCW.

7 This section shall not be construed to prevent the application of
8 standard policy provisions applicable to other benefits such as
9 deductible or copayment provisions. This section does not limit the
10 authority of an insurer to negotiate rates and contract with specific
11 providers for the delivery of mammography services. This section shall
12 not apply to medicare supplement policies or supplemental contracts
13 covering a specified disease or other limited benefits.

14 **Sec. 832.** RCW 48.44.026 and 1990 c 120 s 6 are each amended to
15 read as follows:

16 Checks in payment for claims pursuant to any health care service
17 contract for health care services provided by persons licensed or
18 regulated under chapters (~~18.22,~~) 18.25, 18.29, 18.32, 18.53, 18.57,
19 18.64, 18.71, 18.73, 18.74, 18.83, or (~~18.88 RCW~~) 18.-- RCW (sections
20 401 through 431 of this act), as it applies to registered nurses and
21 advanced registered nurse practitioners, where the provider is not a
22 participating provider under a contract with the health care service
23 contractor, shall be made out to both the provider and the enrolled
24 participant with the provider as the first named payee, jointly, to
25 require endorsement by each: PROVIDED, That payment shall be made in
26 the single name of the enrolled participant if the enrolled participant
27 as part of his or her claim furnishes evidence of prepayment to the
28 health care service provider: AND PROVIDED FURTHER, That nothing in
29 this section shall preclude a health care service contractor from
30 voluntarily issuing payment in the single name of the provider.

31 **Sec. 833.** RCW 48.44.290 and 1986 c 223 s 6 are each amended to
32 read as follows:

33 Notwithstanding any provision of this chapter, for any health care
34 service contract thereunder which is entered into or renewed after July
35 26, 1981, benefits shall not be denied under such contract for any
36 health care service performed by a holder of a license for registered
37 nursing practice or advanced registered nursing practice issued

1 pursuant to chapter ~~((18-88))~~ 18.-- RCW (sections 401 through 431 of
2 this act) if (1) the service performed was within the lawful scope of
3 such person's license, and (2) such contract would have provided
4 benefits if such service had been performed by a holder of a license
5 issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no
6 provision of chapter 18.71 RCW shall be asserted to deny benefits under
7 this section.

8 The provisions of this section are intended to be remedial and
9 procedural to the extent that they do not impair the obligation of any
10 existing contract.

11 **Sec. 834.** RCW 48.44.325 and 1989 c 338 s 3 are each amended to
12 read as follows:

13 Each health care service contract issued or renewed after January
14 1, 1990, that provides benefits for hospital or medical care shall
15 provide benefits for screening or diagnostic mammography services,
16 provided that such services are delivered upon the recommendation of
17 the patient's physician or advanced registered nurse practitioner as
18 authorized by the ~~((board of))~~ nursing care quality assurance
19 commission pursuant to chapter ~~((18-88))~~ 18.-- RCW (sections 401
20 through 431 of this act) or physician~~((s))~~ assistant pursuant to
21 chapter 18.71A RCW.

22 This section shall not be construed to prevent the application of
23 standard contract provisions applicable to other benefits such as
24 deductible or copayment provisions. This section does not limit the
25 authority of a contractor to negotiate rates and contract with specific
26 providers for the delivery of mammography services. This section shall
27 not apply to medicare supplement policies or supplemental contracts
28 covering a specified disease or other limited benefits.

29 **Sec. 835.** RCW 48.46.275 and 1989 c 338 s 4 are each amended to
30 read as follows:

31 Each health maintenance agreement issued or renewed after January
32 1, 1990, that provides benefits for hospital or medical care shall
33 provide benefits for screening or diagnostic mammography services,
34 provided that such services are delivered upon the recommendation of
35 the patient's physician or advanced registered nurse practitioner as
36 authorized by the ~~((board of))~~ nursing care quality assurance
37 commission pursuant to chapter ~~((18-88))~~ 18.-- RCW (sections 401

1 through 431 of this act) or physician(~~(s)~~) assistant pursuant to
2 chapter 18.71A RCW.

3 All services must be provided by the health maintenance
4 organization or rendered upon referral by the health maintenance
5 organization. This section shall not be construed to prevent the
6 application of standard agreement provisions applicable to other
7 benefits such as deductible or copayment provisions. This section does
8 not limit the authority of a health maintenance organization to
9 negotiate rates and contract with specific providers for the delivery
10 of mammography services. This section shall not apply to medicare
11 supplement policies or supplemental contracts covering a specified
12 disease or other limited benefits.

13 **Sec. 836.** RCW 69.41.010 and 1989 1st ex.s. c 9 s 426 and 1989 c 36
14 s 3 are each reenacted and amended to read as follows:

15 As used in this chapter, the following terms (~~(has [have])~~) have
16 the (~~(meaning[s])~~) meanings indicated unless the context clearly
17 requires otherwise:

18 (1) "Administer" means the direct application of a legend drug
19 whether by injection, inhalation, ingestion, or any other means, to the
20 body of a patient or research subject by:

21 (a) A practitioner; or

22 (b) The patient or research subject at the direction of the
23 practitioner.

24 (2) "Deliver" or "delivery" means the actual, constructive, or
25 attempted transfer from one person to another of a legend drug, whether
26 or not there is an agency relationship.

27 (3) "Department" means the department of health.

28 (4) "Dispense" means the interpretation of a prescription or order
29 for a legend drug and, pursuant to that prescription or order, the
30 proper selection, measuring, compounding, labeling, or packaging
31 necessary to prepare that prescription or order for delivery.

32 (5) "Dispenser" means a practitioner who dispenses.

33 (6) "Distribute" means to deliver other than by administering or
34 dispensing a legend drug.

35 (7) "Distributor" means a person who distributes.

36 (8) "Drug" means:

1 (a) Substances recognized as drugs in the official United States
2 pharmacopoeia, official homeopathic pharmacopoeia of the United States,
3 or official national formulary, or any supplement to any of them;

4 (b) Substances intended for use in the diagnosis, cure, mitigation,
5 treatment, or prevention of disease in man or animals;

6 (c) Substances (other than food, minerals or vitamins) intended to
7 affect the structure or any function of the body of man or animals; and

8 (d) Substances intended for use as a component of any article
9 specified in clause (a), (b), or (c) of this subsection. It does not
10 include devices or their components, parts, or accessories.

11 (9) "Legend drugs" means any drugs which are required by state law
12 or regulation of the state board of pharmacy to be dispensed on
13 prescription only or are restricted to use by practitioners only.

14 (10) "Person" means individual, corporation, government or
15 governmental subdivision or agency, business trust, estate, trust,
16 partnership or association, or any other legal entity.

17 (11) "Practitioner" means:

18 (a) A physician under chapter 18.71 RCW, an osteopathic physician
19 or an osteopathic physician and surgeon under chapter 18.57 RCW, a
20 dentist under chapter 18.32 RCW, a (~~podiatrist~~) podiatric physician
21 and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92
22 RCW, a registered nurse (~~under chapter 18.88 RCW, a~~), advanced
23 registered nurse practitioner, or licensed practical nurse under
24 chapter (~~18.78~~) 18.-- RCW (sections 401 through 431 of this act), an
25 optometrist under chapter 18.53 RCW who is certified by the optometry
26 board under RCW 18.53.010, an osteopathic physician(~~s~~) assistant
27 under chapter 18.57A RCW, (~~or~~) a physician(~~s~~) assistant under
28 chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

29 (b) A pharmacy, hospital, or other institution licensed,
30 registered, or otherwise permitted to distribute, dispense, conduct
31 research with respect to, or to administer a legend drug in the course
32 of professional practice or research in this state; and

33 (c) A physician licensed to practice medicine and surgery or a
34 physician licensed to practice osteopathy and surgery in any state, or
35 province of Canada, which shares a common border with the state of
36 Washington.

37 (12) "Secretary" means the secretary of health or the secretary's
38 designee.

1 **Sec. 837.** RCW 69.41.030 and 1991 c 30 s 1 are each amended to read
2 as follows:

3 It shall be unlawful for any person to sell, deliver, or possess
4 any legend drug except upon the order or prescription of a physician
5 under chapter 18.71 RCW, an osteopathic physician or an osteopathic
6 physician and surgeon under chapter 18.57 RCW, a dentist under chapter
7 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW,
8 a veterinarian under chapter 18.92 RCW, a commissioned medical or
9 dental officer in the United States armed forces or public health
10 service in the discharge of his or her official duties, a duly licensed
11 physician or dentist employed by the veterans administration in the
12 discharge of his or her official duties, a registered nurse or advanced
13 registered nurse practitioner under chapter ~~((18.88))~~ 18.-- RCW
14 (sections 401 through 431 of this act) when authorized by the ~~((board~~
15 ~~of))~~ nursing care quality assurance commission, an osteopathic
16 physician~~((s))~~ assistant under chapter 18.57A RCW when authorized by
17 the ~~((committee))~~ board of osteopathic examiners, a physician assistant
18 under chapter 18.71A RCW when authorized by the ~~((board of))~~ medical
19 ~~((examiners))~~ quality assurance commission, a physician licensed to
20 practice medicine and surgery or a physician licensed to practice
21 osteopathy and surgery, a dentist licensed to practice dentistry, a
22 podiatric physician and surgeon licensed to practice podiatric medicine
23 and surgery, or a veterinarian licensed to practice veterinary
24 medicine, in any province of Canada which shares a common border with
25 the state of Washington or in any state of the United States:
26 PROVIDED, HOWEVER, That the above provisions shall not apply to sale,
27 delivery, or possession by drug wholesalers or drug manufacturers, or
28 their agents or employees, or to any practitioner acting within the
29 scope of his or her license, or to a common or contract carrier or
30 warehouseman, or any employee thereof, whose possession of any legend
31 drug is in the usual course of business or employment: PROVIDED
32 FURTHER, That nothing in this chapter or chapter 18.64 RCW shall
33 prevent a family planning clinic that is under contract with the
34 department of social and health services from selling, delivering,
35 possessing, and dispensing commercially prepackaged oral contraceptives
36 prescribed by authorized, licensed health care practitioners.

37 **Sec. 838.** RCW 69.45.010 and 1989 1st ex.s. c 9 s 444 are each
38 amended to read as follows:

1 The definitions in this section apply throughout this chapter.

2 (1) "Board" means the board of pharmacy.

3 (2) "Drug samples" means any federal food and drug administration
4 approved controlled substance, legend drug, or products requiring
5 prescriptions in this state, which is distributed at no charge to a
6 practitioner by a manufacturer or a manufacturer's representative,
7 exclusive of drugs under clinical investigations approved by the
8 federal food and drug administration.

9 (3) "Controlled substance" means a drug, substance, or immediate
10 precursor of such drug or substance, so designated under or pursuant to
11 chapter 69.50 RCW, the uniform controlled substances act.

12 (4) "Deliver" or "delivery" means the actual, constructive, or
13 attempted transfer from one person to another of a drug or device,
14 whether or not there is an agency relationship.

15 (5) "Dispense" means the interpretation of a prescription or order
16 for a drug, biological, or device and, pursuant to that prescription or
17 order, the proper selection, measuring, compounding, labeling, or
18 packaging necessary to prepare that prescription or order for delivery.

19 (6) "Distribute" means to deliver, other than by administering or
20 dispensing, a legend drug.

21 (7) "Legend drug" means any drug that is required by state law or
22 by regulations of the board to be dispensed on prescription only or is
23 restricted to use by practitioners only.

24 (8) "Manufacturer" means a person or other entity engaged in the
25 manufacture or distribution of drugs or devices, but does not include
26 a manufacturer's representative.

27 (9) "Person" means any individual, corporation, government or
28 governmental subdivision or agency, business trust, estate, trust,
29 partnership, association, or any other legal entity.

30 (10) "Practitioner" means a physician under chapter 18.71 RCW, an
31 osteopathic physician or an osteopathic physician and surgeon under
32 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a (~~podiatrist~~)
33 podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian
34 under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a
35 commissioned medical or dental officer in the United States armed
36 forces or the public health service in the discharge of his or her
37 official duties, a duly licensed physician or dentist employed by the
38 veterans administration in the discharge of his or her official duties,
39 a registered nurse or advanced registered nurse practitioner under

1 chapter ((18.88)) 18.-- RCW (sections 401 through 431 of this act) when
2 authorized to prescribe by the ((board of)) nursing care quality
3 assurance commission, an osteopathic ((physician's)) physician
4 assistant under chapter 18.57A RCW when authorized by the board of
5 osteopathic medicine and surgery, or a ((physician's)) physician
6 assistant under chapter 18.71A RCW when authorized by the ((board of))
7 medical ((examiners)) quality assurance commission.

8 (11) "Manufacturer's representative" means an agent or employee of
9 a drug manufacturer who is authorized by the drug manufacturer to
10 possess drug samples for the purpose of distribution in this state to
11 appropriately authorized health care practitioners.

12 (12) "Reasonable cause" means a state of facts found to exist that
13 would warrant a reasonably intelligent and prudent person to believe
14 that a person has violated state or federal drug laws or regulations.

15 (13) "Department" means the department of health.

16 (14) "Secretary" means the secretary of health or the secretary's
17 designee.

18 **Sec. 839.** RCW 69.50.101 and 1993 c 187 s 1 are each amended to
19 read as follows:

20 Unless the context clearly requires otherwise, definitions of terms
21 shall be as indicated where used in this chapter:

22 (a) "Administer" means to apply a controlled substance, whether by
23 injection, inhalation, ingestion, or any other means, directly to the
24 body of a patient or research subject by:

25 (1) a practitioner authorized to prescribe (or, by the
26 practitioner's authorized agent); or

27 (2) the patient or research subject at the direction and in the
28 presence of the practitioner.

29 (b) "Agent" means an authorized person who acts on behalf of or at
30 the direction of a manufacturer, distributor, or dispenser. It does
31 not include a common or contract carrier, public warehouseperson, or
32 employee of the carrier or warehouseperson.

33 (c) "Board" means the state board of pharmacy.

34 (d) "Controlled substance" means a drug, substance, or immediate
35 precursor included in Schedules I through V as set forth in federal or
36 state laws, or federal or board rules.

1 (e)(1) "Controlled substance analog" means a substance the chemical
2 structure of which is substantially similar to the chemical structure
3 of a controlled substance in Schedule I or II and:

4 (i) that has a stimulant, depressant, or hallucinogenic effect on
5 the central nervous system substantially similar to the stimulant,
6 depressant, or hallucinogenic effect on the central nervous system of
7 a controlled substance included in Schedule I or II; or

8 (ii) with respect to a particular individual, that the individual
9 represents or intends to have a stimulant, depressant, or
10 hallucinogenic effect on the central nervous system substantially
11 similar to the stimulant, depressant, or hallucinogenic effect on the
12 central nervous system of a controlled substance included in Schedule
13 I or II.

14 (2) The term does not include:

15 (i) a controlled substance;

16 (ii) a substance for which there is an approved new drug
17 application;

18 (iii) a substance with respect to which an exemption is in effect
19 for investigational use by a particular person under Section 505 of the
20 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent
21 conduct with respect to the substance is pursuant to the exemption; or

22 (iv) any substance to the extent not intended for human consumption
23 before an exemption takes effect with respect to the substance.

24 (f) "Deliver" or "delivery," means the actual or constructive
25 transfer from one person to another of a substance, whether or not
26 there is an agency relationship.

27 (g) "Department" means the department of health.

28 (h) "Dispense" means the interpretation of a prescription or order
29 for a controlled substance and, pursuant to that prescription or order,
30 the proper selection, measuring, compounding, labeling, or packaging
31 necessary to prepare that prescription or order for delivery.

32 (i) "Dispenser" means a practitioner who dispenses.

33 (j) "Distribute" means to deliver other than by administering or
34 dispensing a controlled substance.

35 (k) "Distributor" means a person who distributes.

36 (l) "Drug" means (1) a controlled substance recognized as a drug in
37 the official United States pharmacopoeia/national formulary or the
38 official homeopathic pharmacopoeia of the United States, or any
39 supplement to them; (2) controlled substances intended for use in the

1 diagnosis, cure, mitigation, treatment, or prevention of disease in
2 individuals or animals; (3) controlled substances (other than food)
3 intended to affect the structure or any function of the body of
4 individuals or animals; and (4) controlled substances intended for use
5 as a component of any article specified in (1), (2), or (3) of this
6 subsection. The term does not include devices or their components,
7 parts, or accessories.

8 (m) "Drug enforcement administration" means the drug enforcement
9 administration in the United States Department of Justice, or its
10 successor agency.

11 (n) "Immediate precursor" means a substance:

12 (1) that the state board of pharmacy has found to be and by rule
13 designates as being the principal compound commonly used, or produced
14 primarily for use, in the manufacture of a controlled substance;

15 (2) that is an immediate chemical intermediary used or likely to be
16 used in the manufacture of a controlled substance; and

17 (3) the control of which is necessary to prevent, curtail, or limit
18 the manufacture of the controlled substance.

19 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),
20 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any
21 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)
22 the term includes any positional isomer; and in RCW 69.50.204(a)(35),
23 69.50.204(c), and 69.50.208(a) the term includes any positional or
24 geometric isomer.

25 (p) "Manufacture" means the production, preparation, propagation,
26 compounding, conversion, or processing of a controlled substance,
27 either directly or indirectly or by extraction from substances of
28 natural origin, or independently by means of chemical synthesis, or by
29 a combination of extraction and chemical synthesis, and includes any
30 packaging or repackaging of the substance or labeling or relabeling of
31 its container. The term does not include the preparation, compounding,
32 packaging, repackaging, labeling, or relabeling of a controlled
33 substance:

34 (1) by a practitioner as an incident to the practitioner's
35 administering or dispensing of a controlled substance in the course of
36 the practitioner's professional practice; or

37 (2) by a practitioner, or by the practitioner's authorized agent
38 under the practitioner's supervision, for the purpose of, or as an
39 incident to, research, teaching, or chemical analysis and not for sale.

1 (q) "Marijuana" or "marihuana" means all parts of the plant
2 Cannabis, whether growing or not; the seeds thereof; the resin
3 extracted from any part of the plant; and every compound, manufacture,
4 salt, derivative, mixture, or preparation of the plant, its seeds or
5 resin. The term does not include the mature stalks of the plant, fiber
6 produced from the stalks, oil or cake made from the seeds of the plant,
7 any other compound, manufacture, salt, derivative, mixture, or
8 preparation of the mature stalks (except the resin extracted
9 therefrom), fiber, oil, or cake, or the sterilized seed of the plant
10 which is incapable of germination.

11 (r) "Narcotic drug" means any of the following, whether produced
12 directly or indirectly by extraction from substances of vegetable
13 origin, or independently by means of chemical synthesis, or by a
14 combination of extraction and chemical synthesis:

15 (1) Opium, opium derivative, and any derivative of opium or opium
16 derivative, including their salts, isomers, and salts of isomers,
17 whenever the existence of the salts, isomers, and salts of isomers is
18 possible within the specific chemical designation. The term does not
19 include the isoquinoline alkaloids of opium.

20 (2) Synthetic opiate and any derivative of synthetic opiate,
21 including their isomers, esters, ethers, salts, and salts of isomers,
22 esters, and ethers, whenever the existence of the isomers, esters,
23 ethers, and salts is possible within the specific chemical designation.

24 (3) Poppy straw and concentrate of poppy straw.

25 (4) Coca leaves, except coca leaves and extracts of coca leaves
26 from which cocaine, ecgonine, and derivatives or ecgonine or their
27 salts have been removed.

28 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

29 (6) Cocaine base.

30 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer
31 thereof.

32 (8) Any compound, mixture, or preparation containing any quantity
33 of any substance referred to in subparagraphs (1) through (7).

34 (s) "Opiate" means any substance having an addiction-forming or
35 addiction-sustaining liability similar to morphine or being capable of
36 conversion into a drug having addiction-forming or addiction-sustaining
37 liability. The term includes opium, substances derived from opium
38 (opium derivatives), and synthetic opiates. The term does not include,
39 unless specifically designated as controlled under RCW 69.50.201, the

1 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
2 (dextromethorphan). The term includes the racemic and levorotatory
3 forms of dextromethorphan.

4 (t) "Opium poppy" means the plant of the species *Papaver somniferum*
5 L., except its seeds.

6 (u) "Person" means individual, corporation, business trust, estate,
7 trust, partnership, association, joint venture, government,
8 governmental subdivision or agency, or any other legal or commercial
9 entity.

10 (v) "Poppy straw" means all parts, except the seeds, of the opium
11 poppy, after mowing.

12 (w) "Practitioner" means:

13 (1) A physician under chapter 18.71 RCW, a physician assistant
14 under chapter 18.71A RCW, an osteopathic physician and surgeon under
15 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
16 physician and surgeon under chapter 18.22 RCW, a veterinarian under
17 chapter 18.92 RCW, a registered nurse, advanced registered nurse
18 practitioner, or licensed practical nurse under chapter (~~(18.88)~~) 18.--
19 RCW (sections 401 through 431 of this act), ((a licensed practical
20 nurse under chapter 18.78 RCW,)) a pharmacist under chapter 18.64 RCW
21 or a scientific investigator under this chapter, licensed, registered
22 or otherwise permitted insofar as is consistent with those licensing
23 laws to distribute, dispense, conduct research with respect to or
24 administer a controlled substance in the course of their professional
25 practice or research in this state.

26 (2) A pharmacy, hospital or other institution licensed, registered,
27 or otherwise permitted to distribute, dispense, conduct research with
28 respect to or to administer a controlled substance in the course of
29 professional practice or research in this state.

30 (3) A physician licensed to practice medicine and surgery, a
31 physician licensed to practice osteopathy and surgery, a dentist
32 licensed to practice dentistry, a podiatric physician and surgeon
33 licensed to practice podiatric medicine and surgery, or a veterinarian
34 licensed to practice veterinary medicine in any state of the United
35 States.

36 (x) "Prescription" means an order for controlled substances issued
37 by a practitioner duly authorized by law or rule in the state of
38 Washington to prescribe controlled substances within the scope of his
39 or her professional practice for a legitimate medical purpose.

1 (y) "Production" includes the manufacturing, planting, cultivating,
2 growing, or harvesting of a controlled substance.

3 (z) "Secretary" means the secretary of health or the secretary's
4 designee.

5 (aa) "State," unless the context otherwise requires, means a state
6 of the United States, the District of Columbia, the Commonwealth of
7 Puerto Rico, or a territory or insular possession subject to the
8 jurisdiction of the United States.

9 (bb) "Ultimate user" means an individual who lawfully possesses a
10 controlled substance for the individual's own use or for the use of a
11 member of the individual's household or for administering to an animal
12 owned by the individual or by a member of the individual's household.

13 **Sec. 840.** RCW 69.50.402 and 1980 c 138 s 6 are each amended to
14 read as follows:

15 (a) It is unlawful for any person:

16 (1) who is subject to Article III to distribute or dispense a
17 controlled substance in violation of RCW 69.50.308;

18 (2) who is a registrant, to manufacture a controlled substance not
19 authorized by his registration, or to distribute or dispense a
20 controlled substance not authorized by his registration to another
21 registrant or other authorized person;

22 (3) who is a practitioner, to prescribe, order, dispense,
23 administer, supply, or give to any person:

24 (i) any amphetamine, including its salts, optical isomers, and
25 salts of optical isomers classified as a schedule II controlled
26 substance by the board of pharmacy pursuant to chapter 34.05 RCW; or

27 (ii) any nonnarcotic stimulant classified as a schedule II
28 controlled substance and designated as a nonnarcotic stimulant by the
29 board of pharmacy pursuant to chapter 34.05 RCW;

30 except for the treatment of narcolepsy or for the treatment of
31 hyperkinesia, or for the treatment of drug-induced brain dysfunction,
32 or for the treatment of epilepsy, or for the differential diagnostic
33 psychiatric evaluation of depression, or for the treatment of
34 depression shown to be refractory to other therapeutic modalities, or
35 for the clinical investigation of the effects of such drugs or
36 compounds, in which case an investigative protocol therefor shall have
37 been submitted to and reviewed and approved by the state board of
38 pharmacy before the investigation has been begun: PROVIDED, That the

1 board of pharmacy, in consultation with the medical (~~disciplinary~~
2 ~~board~~) quality assurance commission and the osteopathic disciplinary
3 board, may establish by rule, pursuant to chapter 34.05 RCW, disease
4 states or conditions in addition to those listed in this subsection for
5 the treatment of which Schedule II nonnarcotic stimulants may be
6 prescribed, ordered, dispensed, administered, supplied, or given to
7 patients by practitioners: AND PROVIDED, FURTHER, That investigations
8 by the board of pharmacy of abuse of prescriptive authority by
9 physicians, licensed pursuant to chapter 18.71 RCW, pursuant to
10 subsection (a)(3) of this section shall be done in consultation with
11 the medical (~~disciplinary board~~) quality assurance commission;

12 (4) to refuse or fail to make, keep or furnish any record,
13 notification, order form, statement, invoice, or information required
14 under this chapter;

15 (5) to refuse an entry into any premises for any inspection
16 authorized by this chapter; or

17 (6) knowingly to keep or maintain any store, shop, warehouse,
18 dwelling, building, vehicle, boat, aircraft, or other structure or
19 place, which is resorted to by persons using controlled substances in
20 violation of this chapter for the purpose of using these substances, or
21 which is used for keeping or selling them in violation of this chapter.

22 (b) Any person who violates this section is guilty of a crime and
23 upon conviction may be imprisoned for not more than two years, fined
24 not more than two thousand dollars, or both.

25 **Sec. 841.** RCW 70.02.030 and 1993 c 448 s 3 are each amended to
26 read as follows:

27 (1) A patient may authorize a health care provider to disclose the
28 patient's health care information. A health care provider shall honor
29 an authorization and, if requested, provide a copy of the recorded
30 health care information unless the health care provider denies the
31 patient access to health care information under RCW 70.02.090.

32 (2) A health care provider may charge a reasonable fee for
33 providing the health care information and is not required to honor an
34 authorization until the fee is paid.

35 (3) To be valid, a disclosure authorization to a health care
36 provider shall:

37 (a) Be in writing, dated, and signed by the patient;

38 (b) Identify the nature of the information to be disclosed;

1 (c) Identify the name, address, and institutional affiliation of
2 the person to whom the information is to be disclosed;

3 (d) Except for third-party payors, identify the provider who is to
4 make the disclosure; and

5 (e) Identify the patient.

6 (4) Except as provided by this chapter, the signing of an
7 authorization by a patient is not a waiver of any rights a patient has
8 under other statutes, the rules of evidence, or common law.

9 (5) A health care provider shall retain each authorization or
10 revocation in conjunction with any health care information from which
11 disclosures are made. This requirement shall not apply to disclosures
12 to third-party payors.

13 (6) Except for authorizations given pursuant to an agreement with
14 a treatment or monitoring program or disciplinary authority under
15 chapter ((18.72)) 18.71 or 18.130 RCW or to provide information to
16 third-party payors, an authorization may not permit the release of
17 health care information relating to future health care that the patient
18 receives more than ninety days after the authorization was signed.
19 Patients shall be advised of the period of validity of their
20 authorization on the disclosure authorization form. If the
21 authorization does not contain an expiration date, it expires ninety
22 days after it is signed.

23 **Sec. 842.** RCW 70.41.200 and 1993 c 492 s 415 are each amended to
24 read as follows:

25 (1) Every hospital shall maintain a coordinated quality improvement
26 program for the improvement of the quality of health care services
27 rendered to patients and the identification and prevention of medical
28 malpractice. The program shall include at least the following:

29 (a) The establishment of a quality improvement committee with the
30 responsibility to review the services rendered in the hospital, both
31 retrospectively and prospectively, in order to improve the quality of
32 medical care of patients and to prevent medical malpractice. The
33 committee shall oversee and coordinate the quality improvement and
34 medical malpractice prevention program and shall insure that
35 information gathered pursuant to the program is used to review and to
36 revise hospital policies and procedures;

37 (b) A medical staff privileges sanction procedure through which
38 credentials, physical and mental capacity, and competence in delivering

1 health care services are periodically reviewed as part of an evaluation
2 of staff privileges;

3 (c) The periodic review of the credentials, physical and mental
4 capacity, and competence in delivering health care services of all
5 persons who are employed or associated with the hospital;

6 (d) A procedure for the prompt resolution of grievances by patients
7 or their representatives related to accidents, injuries, treatment, and
8 other events that may result in claims of medical malpractice;

9 (e) The maintenance and continuous collection of information
10 concerning the hospital's experience with negative health care outcomes
11 and incidents injurious to patients, patient grievances, professional
12 liability premiums, settlements, awards, costs incurred by the hospital
13 for patient injury prevention, and safety improvement activities;

14 (f) The maintenance of relevant and appropriate information
15 gathered pursuant to (a) through (e) of this subsection concerning
16 individual physicians within the physician's personnel or credential
17 file maintained by the hospital;

18 (g) Education programs dealing with quality improvement, patient
19 safety, injury prevention, staff responsibility to report professional
20 misconduct, the legal aspects of patient care, improved communication
21 with patients, and causes of malpractice claims for staff personnel
22 engaged in patient care activities; and

23 (h) Policies to ensure compliance with the reporting requirements
24 of this section.

25 (2) Any person who, in substantial good faith, provides information
26 to further the purposes of the quality improvement and medical
27 malpractice prevention program or who, in substantial good faith,
28 participates on the quality improvement committee shall not be subject
29 to an action for civil damages or other relief as a result of such
30 activity.

31 (3) Information and documents, including complaints and incident
32 reports, created specifically for, and collected, and maintained by a
33 quality improvement committee are not subject to discovery or
34 introduction into evidence in any civil action, and no person who was
35 in attendance at a meeting of such committee or who participated in the
36 creation, collection, or maintenance of information or documents
37 specifically for the committee shall be permitted or required to
38 testify in any civil action as to the content of such proceedings or
39 the documents and information prepared specifically for the committee.

1 This subsection does not preclude: (a) In any civil action, the
2 discovery of the identity of persons involved in the medical care that
3 is the basis of the civil action whose involvement was independent of
4 any quality improvement activity; (b) in any civil action, the
5 testimony of any person concerning the facts which form the basis for
6 the institution of such proceedings of which the person had personal
7 knowledge acquired independently of such proceedings; (c) in any civil
8 action by a health care provider regarding the restriction or
9 revocation of that individual's clinical or staff privileges,
10 introduction into evidence information collected and maintained by
11 quality improvement committees regarding such health care provider; (d)
12 in any civil action, disclosure of the fact that staff privileges were
13 terminated or restricted, including the specific restrictions imposed,
14 if any and the reasons for the restrictions; or (e) in any civil
15 action, discovery and introduction into evidence of the patient's
16 medical records required by regulation of the department of health to
17 be made regarding the care and treatment received.

18 (4) Each quality improvement committee shall, on at least a
19 semiannual basis, report to the governing board of the hospital in
20 which the committee is located. The report shall review the quality
21 improvement activities conducted by the committee, and any actions
22 taken as a result of those activities.

23 (5) The department of health shall adopt such rules as are deemed
24 appropriate to effectuate the purposes of this section.

25 (6) The medical ((~~disciplinary board~~)) quality assurance commission
26 or the board of osteopathic medicine and surgery, as appropriate, may
27 review and audit the records of committee decisions in which a
28 physician's privileges are terminated or restricted. Each hospital
29 shall produce and make accessible to the commission or board the
30 appropriate records and otherwise facilitate the review and audit.
31 Information so gained shall not be subject to the discovery process and
32 confidentiality shall be respected as required by subsection (3) of
33 this section. Failure of a hospital to comply with this subsection is
34 punishable by a civil penalty not to exceed two hundred fifty dollars.

35 (7) Violation of this section shall not be considered negligence
36 per se.

37 **Sec. 843.** RCW 70.41.210 and 1986 c 300 s 7 are each amended to
38 read as follows:

1 The chief administrator or executive officer of a hospital shall
2 report to the ((board)) medical quality assurance commission when a
3 physician's clinical privileges are terminated or are restricted based
4 on a determination, in accordance with an institution's bylaws, that a
5 physician has either committed an act or acts which may constitute
6 unprofessional conduct. The officer shall also report if a physician
7 accepts voluntary termination in order to foreclose or terminate actual
8 or possible hospital action to suspend, restrict, or terminate a
9 physician's clinical privileges. Such a report shall be made within
10 sixty days of the date action was taken by the hospital's peer review
11 committee or the physician's acceptance of voluntary termination or
12 restriction of privileges. Failure of a hospital to comply with this
13 section is punishable by a civil penalty not to exceed two hundred
14 fifty dollars.

15 **Sec. 844.** RCW 70.41.230 and 1993 c 492 s 416 are each amended to
16 read as follows:

17 (1) Prior to granting or renewing clinical privileges or
18 association of any physician or hiring a physician, a hospital or
19 facility approved pursuant to this chapter shall request from the
20 physician and the physician shall provide the following information:

21 (a) The name of any hospital or facility with or at which the
22 physician had or has any association, employment, privileges, or
23 practice;

24 (b) If such association, employment, privilege, or practice was
25 discontinued, the reasons for its discontinuation;

26 (c) Any pending professional medical misconduct proceedings or any
27 pending medical malpractice actions in this state or another state, the
28 substance of the allegations in the proceedings or actions, and any
29 additional information concerning the proceedings or actions as the
30 physician deems appropriate;

31 (d) The substance of the findings in the actions or proceedings and
32 any additional information concerning the actions or proceedings as the
33 physician deems appropriate;

34 (e) A waiver by the physician of any confidentiality provisions
35 concerning the information required to be provided to hospitals
36 pursuant to this subsection; and

37 (f) A verification by the physician that the information provided
38 by the physician is accurate and complete.

1 (2) Prior to granting privileges or association to any physician or
2 hiring a physician, a hospital or facility approved pursuant to this
3 chapter shall request from any hospital with or at which the physician
4 had or has privileges, was associated, or was employed, the following
5 information concerning the physician:

6 (a) Any pending professional medical misconduct proceedings or any
7 pending medical malpractice actions, in this state or another state;

8 (b) Any judgment or settlement of a medical malpractice action and
9 any finding of professional misconduct in this state or another state
10 by a licensing or disciplinary board; and

11 (c) Any information required to be reported by hospitals pursuant
12 to RCW 18.72.265 (as recodified by this act).

13 (3) The medical (~~(disciplinary board)~~) quality assurance commission
14 shall be advised within thirty days of the name of any physician denied
15 staff privileges, association, or employment on the basis of adverse
16 findings under subsection (1) of this section.

17 (4) A hospital or facility that receives a request for information
18 from another hospital or facility pursuant to subsections (1) and (2)
19 of this section shall provide such information concerning the physician
20 in question to the extent such information is known to the hospital or
21 facility receiving such a request, including the reasons for
22 suspension, termination, or curtailment of employment or privileges at
23 the hospital or facility. A hospital, facility, or other person
24 providing such information in good faith is not liable in any civil
25 action for the release of such information.

26 (5) Information and documents, including complaints and incident
27 reports, created specifically for, and collected, and maintained by a
28 quality improvement committee are not subject to discovery or
29 introduction into evidence in any civil action, and no person who was
30 in attendance at a meeting of such committee or who participated in the
31 creation, collection, or maintenance of information or documents
32 specifically for the committee shall be permitted or required to
33 testify in any civil action as to the content of such proceedings or
34 the documents and information prepared specifically for the committee.
35 This subsection does not preclude: (a) In any civil action, the
36 discovery of the identity of persons involved in the medical care that
37 is the basis of the civil action whose involvement was independent of
38 any quality improvement activity; (b) in any civil action, the
39 testimony of any person concerning the facts which form the basis for

1 the institution of such proceedings of which the person had personal
2 knowledge acquired independently of such proceedings; (c) in any civil
3 action by a health care provider regarding the restriction or
4 revocation of that individual's clinical or staff privileges,
5 introduction into evidence information collected and maintained by
6 quality improvement committees regarding such health care provider; (d)
7 in any civil action, disclosure of the fact that staff privileges were
8 terminated or restricted, including the specific restrictions imposed,
9 if any and the reasons for the restrictions; or (e) in any civil
10 action, discovery and introduction into evidence of the patient's
11 medical records required by regulation of the department of health to
12 be made regarding the care and treatment received.

13 (6) Hospitals shall be granted access to information held by the
14 medical (~~(disciplinary board)~~) quality assurance commission and the
15 board of osteopathic medicine and surgery pertinent to decisions of the
16 hospital regarding credentialing and recredentialing of practitioners.

17 (7) Violation of this section shall not be considered negligence
18 per se.

19 **Sec. 845.** RCW 70.127.250 and 1993 c 42 s 10 are each amended to
20 read as follows:

21 (1) In addition to the rules consistent with RCW 70.127.005 adopted
22 under RCW 70.127.120, the department shall adopt rules for home health
23 agencies which address the following:

24 (a) Establishment of case management guidelines for acute and
25 maintenance care patients;

26 (b) Establishment of guidelines for periodic review of the home
27 health care plan of care and plan of treatment by appropriate health
28 care professionals; and

29 (c) Maintenance of written policies regarding the delivery and
30 supervision of patient care and clinical consultation as necessary by
31 appropriate health care professionals.

32 (2) As used in this section:

33 (a) "Acute care" means care provided by a home health agency for
34 patients who are not medically stable or have not attained a
35 satisfactory level of rehabilitation. These patients require frequent
36 monitoring by a health care professional in order to maintain their
37 health status.

1 (b) "Maintenance care" means care provided by home health agencies
2 that is necessary to support an existing level of health and to
3 preserve a patient from further failure or decline.

4 (c) "Home health plan of care" means a written plan of care
5 established by a home health agency by appropriate health care
6 professionals that describes maintenance care to be provided. A
7 patient or his or her representative shall be allowed to participate in
8 the development of the plan of care to the extent practicable.

9 (d) "Home health plan of treatment" means a written plan of care
10 established by a physician licensed under chapter 18.57 or 18.71 RCW,
11 a podiatric physician and surgeon licensed under chapter 18.22 RCW, or
12 an advanced registered nurse practitioner as authorized by the (~~board~~
13 ~~of~~) nursing care quality assurance commission under chapter (~~18.88~~)
14 18.-- RCW (sections 401 through 431 of this act), in consultation with
15 appropriate health care professionals within the agency that describes
16 medically necessary acute care to be provided for treatment of illness
17 or injury.

18 **Sec. 846.** RCW 70.180.030 and 1990 c 271 s 3 are each amended to
19 read as follows:

20 (1) The department, in cooperation with (~~the~~) the University of
21 Washington school of medicine, the state's registered nursing programs,
22 the state's pharmacy programs, and other appropriate public and private
23 agencies and associations, shall develop and keep current a register of
24 physicians, physician assistants, pharmacists, and advanced registered
25 nurse practitioners who are available to practice on a short-term basis
26 in rural communities of the state. The department shall periodically
27 screen individuals on the registry for violations of the Uniform
28 Disciplinary Act as authorized in chapter 18.130 RCW. If a finding of
29 unprofessional conduct has been made by the appropriate disciplinary
30 authority against any individual on the registry, the name of that
31 individual shall be removed from the registry and that person shall be
32 made ineligible for the program. The department shall include a list
33 of back-up physicians and hospitals who can provide support to health
34 care providers in the pool. The register shall be compiled, published,
35 and made available to all rural hospitals, public health departments
36 and districts, rural pharmacies, and other appropriate public and
37 private agencies and associations. The department shall coordinate
38 with existing entities involved in health professional recruitment when

1 developing the registry for the health professional temporary
2 substitute resource pool.

3 (2) Eligible health care professionals are those licensed under
4 chapters 18.57, 18.57A, 18.64, 18.71, and 18.71A RCW and advanced
5 registered nurse practitioners licensed under chapter (~~18.88~~) 18.--
6 RCW (sections 401 through 431 of this act).

7 (3) Participating health care professionals shall receive:

8 (a) Reimbursement for travel to and from the rural community and
9 for lodging at a rate determined under RCW 43.03.050 and 43.03.060;

10 (b) Medical malpractice insurance purchased by the department, or
11 the department may reimburse participants for medical malpractice
12 insurance premium costs for medical liability while providing health
13 care services in the program, if the services provided are not covered
14 by the participant's or local provider's existing medical malpractice
15 insurance; and

16 (c) Information on back-up support from other physicians and
17 hospitals in the area to the extent necessary and available.

18 (4) The department may require rural communities to participate in
19 health professional recruitment programs as a condition for providing
20 a temporary substitute health care professional if the community does
21 not have adequate permanent health care personnel. To the extent
22 deemed appropriate and subject to funding, the department may also
23 require communities to participate in other programs or projects, such
24 as the rural health system project authorized in chapter 70.175 RCW,
25 that are designed to assist communities to reorganize the delivery of
26 rural health care services.

27 (5) The department may require a community match for assistance
28 provided in subsection (3) of this section if it determines that
29 adequate community resources exist.

30 (6) The maximum continuous period of time a participating health
31 professional may serve in a community is ninety days. The department
32 may modify or waive this limitation should it determine that the health
33 and safety of the community warrants a waiver or modification. The
34 community shall be responsible for all salary expenses of participating
35 health professionals.

36 **Sec. 847.** RCW 71.05.210 and 1991 c 364 s 11 and 1991 c 105 s 4 are
37 each reenacted and amended to read as follows:

1 Each person involuntarily admitted to an evaluation and treatment
2 facility shall, within twenty-four hours of his or her admission, be
3 examined and evaluated by a licensed physician who may be assisted by
4 a physician assistant according to chapter 18.71A RCW or ((a)) an
5 advanced registered nurse practitioner according to chapter ((18.88))
6 18.-- RCW (sections 401 through 431 of this act) and a mental health
7 professional as defined in this chapter, and shall receive such
8 treatment and care as his or her condition requires including treatment
9 on an outpatient basis for the period that he or she is detained,
10 except that, beginning twenty-four hours prior to a court proceeding,
11 the individual may refuse all but emergency life-saving treatment, and
12 the individual shall be informed at an appropriate time of his or her
13 right to such refusal of treatment. Such person shall be detained up
14 to seventy-two hours, if, in the opinion of the professional person in
15 charge of the facility, or his or her professional designee, the person
16 presents a likelihood of serious harm to himself or herself or others,
17 or is gravely disabled. A person who has been detained for seventy-two
18 hours shall no later than the end of such period be released, unless
19 referred for further care on a voluntary basis, or detained pursuant to
20 court order for further treatment as provided in this chapter.

21 If, after examination and evaluation, the licensed physician and
22 mental health professional determine that the initial needs of the
23 person would be better served by placement in a chemical dependency
24 treatment facility, then the person shall be referred to an approved
25 treatment program defined under RCW 70.96A.020.

26 An evaluation and treatment center admitting any person pursuant to
27 this chapter whose physical condition reveals the need for
28 hospitalization shall assure that such person is transferred to an
29 appropriate hospital for treatment. Notice of such fact shall be given
30 to the court, the designated attorney, and the designated county mental
31 health professional and the court shall order such continuance in
32 proceedings under this chapter as may be necessary, but in no event may
33 this continuance be more than fourteen days.

34 **Sec. 848.** RCW 71.24.025 and 1991 c 306 s 2 are each amended to
35 read as follows:

36 Unless the context clearly requires otherwise, the definitions in
37 this section apply throughout this chapter.

1 (1) "Acutely mentally ill" means a condition which is limited to a
2 short-term severe crisis episode of:

3 (a) A mental disorder as defined in RCW 71.05.020(2) or, in the
4 case of a child, as defined in RCW 71.34.020(12);

5 (b) Being gravely disabled as defined in RCW 71.05.020(1) or, in
6 the case of a child, as defined in RCW 71.34.020(8); or

7 (c) Presenting a likelihood of serious harm as defined in RCW
8 71.05.020(3) or, in the case of a child, as defined in RCW
9 71.34.020(11).

10 (2) "Available resources" means those funds which shall be
11 appropriated under this chapter by the legislature during any biennium
12 for the purpose of providing community mental health programs under RCW
13 71.24.045. When regional support networks are established or after
14 July 1, 1995, "available resources" means federal funds, except those
15 provided according to Title XIX of the Social Security Act, and state
16 funds appropriated under this chapter or chapter 71.05 RCW by the
17 legislature during any biennium for the purpose of providing
18 residential services, resource management services, community support
19 services, and other mental health services. This does not include
20 funds appropriated for the purpose of operating and administering the
21 state psychiatric hospitals, except as negotiated according to RCW
22 71.24.300(1)(d).

23 (3) "Licensed service provider" means an entity licensed according
24 to this chapter or chapter 71.05 RCW that meets state minimum standards
25 or individuals licensed under chapter 18.57, 18.71, 18.83, or (~~18.88~~
26 ~~RCW~~) 18.-- RCW (sections 401 through 431 of this act), as it applies
27 to registered nurses and advanced registered nurse practitioners.

28 (4) "Child" means a person under the age of eighteen years.

29 (5) "Chronically mentally ill adult" means an adult who has a
30 mental disorder and meets at least one of the following criteria:

31 (a) Has undergone two or more episodes of hospital care for a
32 mental disorder within the preceding two years; or

33 (b) Has experienced a continuous psychiatric hospitalization or
34 residential treatment exceeding six months' duration within the
35 preceding year; or

36 (c) Has been unable to engage in any substantial gainful activity
37 by reason of any mental disorder which has lasted for a continuous
38 period of not less than twelve months. "Substantial gainful activity"

1 shall be defined by the department by rule consistent with Public Law
2 92-603, as amended.

3 (6) "Severely emotionally disturbed child" means an infant or child
4 who has been determined by the regional support network to be
5 experiencing a mental disorder as defined in chapter 71.34 RCW,
6 including those mental disorders that result in a behavioral or conduct
7 disorder, that is clearly interfering with the child's functioning in
8 family or school or with peers and who meets at least one of the
9 following criteria:

10 (a) Has undergone inpatient treatment or placement outside of the
11 home related to a mental disorder within the last two years;

12 (b) Has undergone involuntary treatment under chapter 71.34 RCW
13 within the last two years;

14 (c) Is currently served by at least one of the following child-
15 serving systems: Juvenile justice, child-protection/welfare, special
16 education, or developmental disabilities;

17 (d) Is at risk of escalating maladjustment due to:

18 (i) Chronic family dysfunction involving a mentally ill or
19 inadequate caretaker;

20 (ii) Changes in custodial adult;

21 (iii) Going to, residing in, or returning from any placement
22 outside of the home, for example, psychiatric hospital, short-term
23 inpatient, residential treatment, group or foster home, or a
24 correctional facility;

25 (iv) Subject to repeated physical abuse or neglect;

26 (v) Drug or alcohol abuse; or

27 (vi) Homelessness.

28 (7) "Community mental health program" means all mental health
29 services established by a county authority. After July 1, 1995, or
30 when the regional support networks are established, "community mental
31 health program" means all activities or programs using available
32 resources.

33 (8) "Community support services" means services for acutely
34 mentally ill persons, chronically mentally ill adults, and severely
35 emotionally disturbed children and includes: (a) Discharge planning
36 for clients leaving state mental hospitals, other acute care inpatient
37 facilities, inpatient psychiatric facilities for persons under twenty-
38 one years of age, and other children's mental health residential
39 treatment facilities; (b) sufficient contacts with clients, families,

1 schools, or significant others to provide for an effective program of
2 community maintenance; and (c) medication monitoring. After July 1,
3 1995, or when regional support networks are established, for adults and
4 children "community support services" means services authorized,
5 planned, and coordinated through resource management services
6 including, at least, assessment, diagnosis, emergency crisis
7 intervention available twenty-four hours, seven days a week,
8 prescreening determinations for mentally ill persons being considered
9 for placement in nursing homes as required by federal law, screening
10 for patients being considered for admission to residential services,
11 diagnosis and treatment for acutely mentally ill and severely
12 emotionally disturbed children discovered under screening through the
13 federal Title XIX early and periodic screening, diagnosis, and
14 treatment program, investigation, legal, and other nonresidential
15 services under chapter 71.05 RCW, case management services, psychiatric
16 treatment including medication supervision, counseling, psychotherapy,
17 assuring transfer of relevant patient information between service
18 providers, other services determined by regional support networks, and
19 maintenance of a patient tracking system for chronically mentally ill
20 adults and severely emotionally disturbed children.

21 (9) "County authority" means the board of county commissioners,
22 county council, or county executive having authority to establish a
23 community mental health program, or two or more of the county
24 authorities specified in this subsection which have entered into an
25 agreement to provide a community mental health program.

26 (10) "Department" means the department of social and health
27 services.

28 (11) "Mental health services" means community services pursuant to
29 RCW 71.24.035(5)(b) and other services provided by the state for the
30 mentally ill. When regional support networks are established, or after
31 July 1, 1995, "mental health services" shall include all services
32 provided by regional support networks.

33 (12) "Mentally ill persons" and "the mentally ill" mean persons and
34 conditions defined in subsections (1), (5), (6), and (16) of this
35 section.

36 (13) "Regional support network" means a county authority or group
37 of county authorities recognized by the secretary that enter into joint
38 operating agreements to contract with the secretary pursuant to this
39 chapter.

1 (14) "Residential services" means a facility or distinct part
2 thereof which provides food and shelter, and may include treatment
3 services.

4 When regional support networks are established, or after July 1,
5 1995, for adults and children "residential services" means a complete
6 range of residences and supports authorized by resource management
7 services and which may involve a facility, a distinct part thereof, or
8 services which support community living, for acutely mentally ill
9 persons, chronically mentally ill adults, severely emotionally
10 disturbed children, or seriously disturbed adults determined by the
11 regional support network to be at risk of becoming acutely or
12 chronically mentally ill. The services shall include at least
13 evaluation and treatment services as defined in chapter 71.05 RCW,
14 acute crisis respite care, long-term adaptive and rehabilitative care,
15 and supervised and supported living services, and shall also include
16 any residential services developed to service mentally ill persons in
17 nursing homes. Residential services for children in out-of-home
18 placements related to their mental disorder shall not include the costs
19 of food and shelter, except for children's long-term residential
20 facilities existing prior to January 1, 1991.

21 (15) "Resource management services" mean the planning,
22 coordination, and authorization of residential services and community
23 support services administered pursuant to an individual service plan
24 for acutely mentally ill adults and children, chronically mentally ill
25 adults, severely emotionally disturbed children, or seriously disturbed
26 adults determined by the regional support network at their sole
27 discretion to be at risk of becoming acutely or chronically mentally
28 ill. Such planning, coordination, and authorization shall include
29 mental health screening for children eligible under the federal Title
30 XIX early and periodic screening, diagnosis, and treatment program.
31 Resource management services include seven day a week, twenty-four hour
32 a day availability of information regarding mentally ill adults' and
33 children's enrollment in services and their individual service plan to
34 county-designated mental health professionals, evaluation and treatment
35 facilities, and others as determined by the regional support network.

36 (16) "Seriously disturbed person" means a person who:

37 (a) Is gravely disabled or presents a likelihood of serious harm to
38 oneself or others as a result of a mental disorder as defined in
39 chapter 71.05 RCW;

1 (b) Has been on conditional release status at some time during the
2 preceding two years from an evaluation and treatment facility or a
3 state mental health hospital;

4 (c) Has a mental disorder which causes major impairment in several
5 areas of daily living;

6 (d) Exhibits suicidal preoccupation or attempts; or

7 (e) Is a child diagnosed by a mental health professional, as
8 defined in RCW 71.05.020, as experiencing a mental disorder which is
9 clearly interfering with the child's functioning in family or school or
10 with peers or is clearly interfering with the child's personality
11 development and learning.

12 (17) "Secretary" means the secretary of social and health services.

13 (18) "State minimum standards" means: (a) Minimum requirements for
14 delivery of mental health services as established by departmental rules
15 and necessary to implement this chapter, including but not limited to
16 licensing service providers and services; (b) minimum service
17 requirements for licensed service providers for the provision of mental
18 health services as established by departmental rules pursuant to
19 chapter 34.05 RCW as necessary to implement this chapter, including,
20 but not limited to: Qualifications for staff providing services
21 directly to mentally ill persons; the intended result of each service;
22 and the rights and responsibilities of persons receiving mental health
23 services pursuant to this chapter; (c) minimum requirements for
24 residential services as established by the department in rule based on
25 clients' functional abilities and not solely on their diagnoses,
26 limited to health and safety, staff qualifications, and program
27 outcomes. Minimum requirements for residential services are those
28 developed in collaboration with consumers, families, counties,
29 regulators, and residential providers serving the mentally ill.
30 Minimum requirements encourage the development of broad-range
31 residential programs, including integrated housing and cross-systems
32 programs where appropriate, and do not unnecessarily restrict
33 programming flexibility; and (d) minimum standards for community
34 support services and resource management services, including at least
35 qualifications for resource management services, client tracking
36 systems, and the transfer of patient information between service
37 providers.

1 **Sec. 849.** RCW 74.09.290 and 1990 c 100 s 5 are each amended to
2 read as follows:

3 The secretary of the department of social and health services or
4 his authorized representative shall have the authority to:

5 (1) Conduct audits and investigations of providers of medical and
6 other services furnished pursuant to this chapter, except that the
7 Washington state medical ((disciplinary board)) quality assurance
8 commission shall generally serve in an advisory capacity to the
9 secretary in the conduct of audits or investigations of physicians.
10 Any overpayment discovered as a result of an audit of a provider under
11 this authority shall be offset by any underpayments discovered in that
12 same audit sample. In order to determine the provider's actual, usual,
13 customary, or prevailing charges, the secretary may examine such random
14 representative records as necessary to show accounts billed and
15 accounts received except that in the conduct of such examinations,
16 patient names, other than public assistance applicants or recipients,
17 shall not be noted, copied, or otherwise made available to the
18 department. In order to verify costs incurred by the department for
19 treatment of public assistance applicants or recipients, the secretary
20 may examine patient records or portions thereof in connection with
21 services to such applicants or recipients rendered by a health care
22 provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200,
23 18.83.110, or any other statute which may make or purport to make such
24 records privileged or confidential: PROVIDED, That no original patient
25 records shall be removed from the premises of the health care provider,
26 and that the disclosure of any records or information by the department
27 of social and health services is prohibited and shall be punishable as
28 a class C felony according to chapter 9A.20 RCW, unless such disclosure
29 is directly connected to the official purpose for which the records or
30 information were obtained: PROVIDED FURTHER, That the disclosure of
31 patient information as required under this section shall not subject
32 any physician or other health services provider to any liability for
33 breach of any confidential relationship between the provider and the
34 patient, but no evidence resulting from such disclosure may be used in
35 any civil, administrative, or criminal proceeding against the patient
36 unless a waiver of the applicable evidentiary privilege is obtained:
37 PROVIDED FURTHER, That the secretary shall destroy all copies of
38 patient medical records in their possession upon completion of the
39 audit, investigation or proceedings;

1 (2) Approve or deny applications to participate as a provider of
2 services furnished pursuant to this chapter;

3 (3) Terminate or suspend eligibility to participate as a provider
4 of services furnished pursuant to this chapter; and

5 (4) Adopt, promulgate, amend, and (~~repeal~~) repeal administrative
6 rules (~~and regulations~~), in accordance with the Administrative
7 Procedure Act, chapter 34.05 RCW, to carry out the policies and
8 purposes of RCW 74.09.200 through 74.09.290.

9 **Sec. 850.** RCW 74.42.010 and 1993 c 508 s 4 are each amended to
10 read as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Department" means the department of social and health services
14 and the department's employees.

15 (2) "Facility" refers to a nursing home as defined in RCW
16 18.51.010.

17 (3) "Licensed practical nurse" means a person licensed to practice
18 practical nursing under chapter (~~18.78~~) 18.-- RCW (sections 401
19 through 431 of this act).

20 (4) "Medicaid" means Title XIX of the Social Security Act enacted
21 by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79
22 Stat. 343), as amended.

23 (5) "Nursing care" means that care provided by a registered nurse,
24 an advanced registered nurse practitioner, a licensed practical nurse,
25 or a nursing assistant in the regular performance of their duties.

26 (6) "Qualified therapist" means:

27 (a) An activities specialist who has specialized education,
28 training, or experience specified by the department.

29 (b) An audiologist who is eligible for a certificate of clinical
30 competence in audiology or who has the equivalent education and
31 clinical experience.

32 (c) A mental health professional as defined in chapter 71.05 RCW.

33 (d) A mental retardation professional who is a qualified therapist
34 or a therapist approved by the department and has specialized training
35 or one year experience in treating or working with the mentally
36 retarded or developmentally disabled.

37 (e) An occupational therapist who is a graduate of a program in
38 occupational therapy or who has equivalent education or training.

1 (f) A physical therapist as defined in chapter 18.74 RCW.
2 (g) A social worker who is a graduate of a school of social work.
3 (h) A speech pathologist who is eligible for a certificate of
4 clinical competence in speech pathology or who has equivalent education
5 and clinical experience.

6 (7) "Registered nurse" means a person (~~((practicing))~~) licensed to
7 practice registered nursing under chapter ((18.88)) 18.-- RCW (sections
8 401 through 431 of this act).

9 (8) "Resident" means an individual residing in a nursing home, as
10 defined in RCW 18.51.010.

11 (9) "Physician(~~(s)~~) assistant" means a person practicing pursuant
12 to chapters 18.57A and 18.71A RCW.

13 (10) "Nurse practitioner" means a person (~~((practicing such expanded~~
14 ~~acts of nursing as are authorized by the board of nursing pursuant to~~
15 ~~RCW 18.88.030))~~ licensed to practice advanced registered nursing under
16 chapter 18.-- RCW (sections 401 through 431 of this act).

17 **Sec. 851.** RCW 74.42.230 and 1982 c 120 s 2 are each amended to
18 read as follows:

19 (1) The resident's attending or staff physician or authorized
20 practitioner approved by the attending physician shall order all
21 medications for the resident. The order may be oral or written and
22 shall be limited by time. An "authorized practitioner," as used in
23 this section, is a registered nurse under chapter ((18.88)) 18.-- RCW
24 (sections 401 through 431 of this act) when authorized by the ((board
25 of)) nursing care quality assurance commission, an osteopathic
26 physician(~~(s)~~) assistant under chapter 18.57A RCW when authorized by
27 the committee of osteopathic examiners, or a physician(~~(s)~~) assistant
28 under chapter 18.71A RCW when authorized by the ((board of)) medical
29 ((examiners)) quality assurance commission.

30 (2) An oral order shall be given only to a licensed nurse,
31 pharmacist, or another physician. The oral order shall be recorded and
32 signed immediately by the person receiving the order. The attending
33 physician shall sign the record of the oral order in a manner
34 consistent with good medical practice.

35 **Sec. 852.** RCW 74.42.240 and 1989 c 372 s 5 are each amended to
36 read as follows:

1 (1) No staff member may administer any medication to a resident
2 unless the staff member is licensed to administer medication:
3 PROVIDED, That nothing herein shall be construed as prohibiting
4 graduate nurses or student nurses from administering medications when
5 permitted to do so under chapter (~~(18.88 or 18.78)~~) 18.-- RCW (sections
6 401 through 431 of this act) and rules adopted thereunder.

7 (2) The facility may only allow a resident to give himself or
8 herself medication with the attending physician's permission.

9 (3) Medication shall only be administered to or used by the
10 resident for whom it is ordered.

11 **Sec. 853.** RCW 74.42.380 and 1989 c 372 s 6 are each amended to
12 read as follows:

13 (1) The facility shall have a director of nursing services. The
14 director of nursing services shall be a registered nurse or an advanced
15 registered nurse practitioner.

16 (2) The director of nursing services is responsible for:

17 (a) Coordinating the plan of care for each resident;

18 (b) Permitting only licensed personnel to administer medications:
19 PROVIDED, That nothing herein shall be construed as prohibiting
20 graduate nurses or student nurses from administering medications when
21 permitted to do so under chapter (~~(18.88 or 18.78)~~) 18.-- RCW (sections
22 401 through 431 of this act) and rules (~~((promulgated pursuant thereto))~~)
23 adopted under it: PROVIDED FURTHER, That nothing herein shall be
24 construed as prohibiting persons certified under chapter 18.135 RCW
25 from practicing pursuant to the delegation and supervision requirements
26 of chapter 18.135 RCW and rules (~~((promulgated pursuant thereto))~~)
27 adopted under it; and

28 (c) Insuring that the licensed practical nurses (~~((comply with~~
29 ~~chapter 18.78 RCW,))~~) and the registered nurses comply with chapter
30 (~~(18.88)~~) 18.-- RCW (sections 401 through 431 of this act), and persons
31 certified under chapter 18.135 RCW comply with the provisions of that
32 chapter and rules (~~((promulgated pursuant thereto))~~) adopted under it.

33 **DISABILITY ACCOMMODATION REVOLVING FUND ADVISORY REVIEW BOARD**

34 **Sec. 901.** RCW 41.04.395 and 1987 c 9 s 2 are each amended to read
35 as follows:

1 (1) The disability accommodation revolving fund is created in the
2 custody of the state treasurer. Disbursements from the fund shall be
3 on authorization of the director of the department of personnel or the
4 director's designee. The fund is subject to the allotment procedure
5 provided under chapter 43.88 RCW, but no appropriation is required for
6 disbursements. The fund shall be used exclusively by state agencies to
7 accommodate the unanticipated job site or equipment needs of persons of
8 disability in state employ.

9 (2) The director of the department of personnel shall (~~appoint an~~
10 ~~advisory review board to review and approve~~) consult with the
11 governor's committee on disability issues and employment regarding
12 requests for disbursements from the disability accommodation revolving
13 fund. The (~~review board~~) department shall establish application
14 procedures, adopt criteria, and provide technical assistance to users
15 of the fund.

16 (3) Agencies that receive moneys from the disability accommodation
17 revolving fund shall return to the fund the amount received from the
18 fund by no later than the end of the first month of the following
19 fiscal biennium.

20 **MOTOR VEHICLE ADVISORY COMMITTEE**

21 **Sec. 902.** RCW 43.19.558 and 1989 c 57 s 5 are each amended to read
22 as follows:

23 The motor transport account shall be used to pay the costs of
24 carrying out the programs provided for in RCW 43.19.550 through
25 43.19.558, unless otherwise specified by law. The director of general
26 administration may recover the costs of the programs by billing
27 agencies that own and operate passenger motor vehicles on the basis of
28 a per vehicle charge. The director of general administration, after
29 consultation with affected state agencies (~~and recommendation of the~~
30 ~~motor vehicle advisory committee~~), shall establish the rates. All
31 rates shall be approved by the director of financial management. The
32 proceeds generated by these charges shall be used solely to carry out
33 RCW 43.19.550 through 43.19.558.

34 **Sec. 903.** RCW 43.19.554 and 1990 c 75 s 1 are each amended to read
35 as follows:

1 (1) To carry out the purposes of RCW 43.19.550 through 43.19.558
2 and 46.08.065, the director of general administration has the following
3 powers and duties:

4 (a) To develop and implement a state-wide information system to
5 collect, analyze, and disseminate data on the acquisition, operation,
6 management, maintenance, repair, disposal, and replacement of all
7 state-owned passenger motor vehicles. State agencies shall provide the
8 department with such data as is necessary to implement and maintain the
9 system. The department shall provide state agencies with information
10 and reports designed to assist them in achieving efficient and cost-
11 effective management of their passenger motor vehicle operations.

12 (b) To survey state agencies to identify the location, ownership,
13 and condition of all state-owned fuel storage tanks.

14 (c) In cooperation with the department of ecology and other public
15 agencies, to prepare a plan and funding proposal for the inspection and
16 repair or replacement of state-owned fuel storage tanks, and for the
17 clean-up of fuel storage sites where leakage has occurred. The plan
18 and funding proposal shall be submitted to the governor no later than
19 December 1, 1989.

20 (d) To develop and implement a state-wide motor vehicle fuel
21 purchase, distribution, and accounting system to be used by all state
22 agencies and their employees. The director may exempt agencies from
23 participation in the system if the director determines that
24 participation interferes with the statutory duties of the agency.

25 (e) To establish minimum standards and requirements for the content
26 and frequency of safe driving instruction for state employees operating
27 state-owned passenger motor vehicles, which shall include consideration
28 of employee driving records. In carrying out this requirement, the
29 department shall consult with other agencies that have expertise in
30 this area.

31 (f) To develop a schedule, after consultation with (~~the state~~
32 ~~motor vehicle advisory committee and~~) affected state agencies, for
33 state employees to participate in safe driving instruction.

34 (g) To require all state employees to provide proof of a driver's
35 license recognized as valid under Washington state law prior to
36 operating a state-owned passenger vehicle.

37 (h) To develop standards for the efficient and economical
38 replacement of all categories of passenger motor vehicles used by state

1 agencies and provide those standards to state agencies and the office
2 of financial management.

3 (i) To develop and implement a uniform system and standards to be
4 used for the marking of passenger motor vehicles as state-owned
5 vehicles as provided for in RCW 46.08.065. The system shall be
6 designed to enhance the resale value of passenger motor vehicles, yet
7 ensure that the vehicles are clearly identified as property of the
8 state.

9 (j) To develop and implement other programs to improve the
10 performance, efficiency, and cost-effectiveness of passenger motor
11 vehicles owned and operated by state agencies.

12 (k) To consult with state agencies and institutions of higher
13 education in carrying out RCW 43.19.550 through 43.19.558.

14 (2) The director shall establish an operational unit within the
15 department to carry out subsection (1) of this section. The director
16 shall employ such personnel as are necessary to carry out RCW 43.19.550
17 through 43.19.558. Not more than three employees within the unit may
18 be exempt from chapter 41.06 RCW.

19 (3) No later than December 31, 1992, the director shall report to
20 the governor and appropriate standing committees of the legislature on
21 the implementation of programs prescribed by this section, any cost
22 savings and efficiencies realized by their implementation, and
23 recommendations for statutory changes.

24 **SOLID WASTE PLAN ADVISORY COMMITTEE**

25 NEW SECTION. **Sec. 904.** The director of ecology shall abolish the
26 solid waste plan advisory committee effective July 1, 1994.

27 **POLLUTION LIABILITY INSURANCE PROGRAM TECHNICAL ADVISORY COMMITTEE**

28 **Sec. 905.** RCW 70.148.030 and 1990 c 64 s 4 are each amended to
29 read as follows:

30 (1) The Washington pollution liability insurance program is created
31 as an independent agency of the state. The administrative head and
32 appointing authority of the program shall be the director who shall be
33 appointed by the governor, with the consent of the senate, and shall
34 serve at the pleasure of the governor. The salary for this office
35 shall be set by the governor pursuant to RCW 43.03.040. The director

1 shall appoint a deputy director. The director, deputy director, and up
2 to three other employees are exempt from the civil service law, chapter
3 41.06 RCW.

4 (2) The director shall employ such other staff as are necessary to
5 fulfill the responsibilities and duties of the director. The staff is
6 subject to the civil service law, chapter 41.06 RCW. In addition, the
7 director may contract with third parties for services necessary to
8 carry out its activities where this will promote economy, avoid
9 duplication of effort, and make best use of available expertise. To
10 the extent necessary to protect the state from unintended liability and
11 ensure quality program and contract design, the director shall contract
12 with an organization or organizations with demonstrated experience and
13 ability in managing and designing pollution liability insurance and
14 with an organization or organizations with demonstrated experience and
15 ability in managing and designing pollution liability reinsurance. The
16 director shall enter into such contracts after competitive bid but need
17 not select the lowest bid. Any such contractor or consultant is
18 prohibited from releasing, publishing, or otherwise using any
19 information made available to it under its contractual responsibility
20 without specific permission of the program director. The director may
21 call upon other agencies of the state to provide technical support and
22 available information as necessary to assist the director in meeting
23 the director's responsibilities under this chapter. Agencies shall
24 supply this support and information as promptly as circumstances
25 permit.

26 ~~(3) ((The governor shall appoint a standing technical advisory~~
27 ~~committee that is representative of the public, the petroleum marketing~~
28 ~~industry, business and local government owners of underground storage~~
29 ~~tanks, and insurance professionals. Individuals appointed to the~~
30 ~~technical advisory committee shall serve at the pleasure of the~~
31 ~~governor and without compensation for their services as members, but~~
32 ~~may be reimbursed for their travel expenses in accordance with RCW~~
33 ~~43.03.050 and 43.03.060.~~

34 ~~(4) A member of the technical advisory committee of the program is~~
35 ~~not civilly liable for any act or omission in the course and scope of~~
36 ~~his or her official capacity unless the act or omission constitutes~~
37 ~~gross negligence.)) The director may appoint ad hoc technical advisory
38 committees to obtain expertise necessary to fulfill the purposes of
39 this chapter.~~

1 **FISHERIES ADVISORY REVIEW BOARDS**

2 **Sec. 907.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 240 s 27 are
3 each reenacted and amended to read as follows:

4 (1) The director shall appoint three-member advisory review boards
5 to hear cases as provided in RCW 75.30.060. Members shall be from:

6 ~~((The salmon charter boat fishing industry in cases involving
7 salmon charter licenses or angler permits;~~

8 ~~(b) The commercial salmon fishing industry in cases involving
9 commercial salmon fishery licenses;~~

10 ~~(c)) The commercial crab fishing industry in cases involving
11 dungeness crab--Puget Sound fishery licenses;~~

12 ~~((d)) (b) The commercial herring fishery in cases involving
13 herring fishery licenses;~~

14 ~~((e) The commercial Puget Sound whiting fishery in cases involving
15 whiting--Puget Sound fishery licenses;~~

16 ~~(f)) (c) The commercial sea urchin fishery in cases involving sea
17 urchin dive fishery licenses;~~

18 ~~((g)) (d) The commercial sea cucumber fishery in cases involving
19 sea cucumber dive fishery licenses; and~~

20 ~~((h)) (e) The commercial ocean pink shrimp industry (Pandalus
21 jordani) in cases involving ocean pink shrimp delivery licenses.~~

22 (2) Members shall serve at the discretion of the director and shall
23 be reimbursed for travel expenses as provided in RCW 43.03.050,
24 43.03.060, and 43.03.065.

25 **FISHERIES REGIONAL ADVISORY COMMITTEES**

26 NEW SECTION. **Sec. 908.** A new section is added to chapter 75.30
27 RCW to read as follows:

28 The director of the department of fish and wildlife shall abolish
29 the department's regional advisory committees, effective July 1, 1994.

30 **OIL AND GAS CONSERVATION COMMITTEE**

31 **Sec. 909.** RCW 78.52.010 and 1983 c 253 s 2 are each amended to
32 read as follows:

33 For the purposes of this chapter, unless the text otherwise
34 requires, the following terms shall have the following meanings:

1 (1) "Certificate of clearance" means a permit prescribed by the
2 ((committee)) department for the transportation or the delivery of oil,
3 gas, or product.

4 (2) "((Committee)) Department" means the ((oil and gas conservation
5 committee)) department of natural resources.

6 (3) "Development unit" means the maximum area of a pool which may
7 be drained efficiently and economically by one well.

8 (4) "Division order" means an instrument showing percentage of
9 royalty or rental divisions among royalty owners.

10 (5) "Fair and reasonable share of the production" means, as to each
11 separately-owned tract or combination of tracts, that part of the
12 authorized production from a pool that is substantially in the
13 proportion that the amount of recoverable oil or gas under the
14 development unit of that separately-owned tract or tracts bears to the
15 recoverable oil or gas or both in the total of the development units in
16 the pool.

17 (6) "Field" means the general area which is underlaid by at least
18 one pool and includes the underground reservoir or reservoirs
19 containing oil or gas, or both. The words "field" and "pool" mean the
20 same thing when only one underground reservoir is involved; however,
21 "field," unlike "pool," may relate to two or more pools.

22 (7) "Gas" means all natural gas, all gaseous substances, and all
23 other fluid or gaseous hydrocarbons not defined as oil in subsection
24 (12) of this section, including but not limited to wet gas, dry gas,
25 residue gas, condensate, and distillate, as those terms are generally
26 understood in the petroleum industry.

27 (8) "Illegal oil" or "illegal gas" means oil or gas that has been
28 produced from any well within the state in violation of this chapter or
29 any rule or order of the ((committee)) department.

30 (9) "Illegal product" means any product derived in whole or part
31 from illegal oil or illegal gas.

32 (10) "Interested person" means a person with an ownership, basic
33 royalty, or leasehold interest in oil or gas within an existing or
34 proposed development unit or unitized pool.

35 (11) "Lessee" means the lessee under an oil and gas lease, or the
36 owner of any land or mineral rights who has the right to conduct or
37 carry on any oil and gas development, exploration and operation
38 thereon, or any person so operating for himself, herself, or others.

1 (12) "Oil" means crude petroleum, oil, and all hydrocarbons,
2 regardless of gravity, that are in the liquid phase in the original
3 reservoir conditions and are produced and recovered at the wellhead in
4 liquid form.

5 (13) "Operator" means the person who operates a well or unit or who
6 has been designated or accepted by the owners to operate the well or
7 unit, and who is responsible for compliance with the ((committee's))
8 department's rules and policies.

9 (14) "Owner" means the person who has the right to develop,
10 operate, drill into, and produce from a pool and to appropriate the oil
11 or gas that he or she produces therefrom, either for that person or for
12 that person and others.

13 (15) "Person" means any natural person, corporation, association,
14 partnership, receiver, trustee, executor, administrator, guardian,
15 fiduciary, or representative of any kind and includes any governmental
16 or political subdivision or any agency thereof.

17 (16) "Pool" means an underground reservoir containing a common
18 accumulation of oil or gas, or both. Each zone of a structure which is
19 completely separated from any other zone in the same structure such
20 that the accumulations of oil or gas are not common with each other is
21 considered a separate pool and is covered by the term "pool" as used in
22 this chapter.

23 (17) "Pooling" means the integration or combination of two or more
24 tracts into an area sufficient to constitute a development unit of the
25 size for one well as prescribed by the ((committee)) department.

26 (18) "Product" means any commodity made from oil or gas.

27 (19) "Protect correlative rights" means that the action or
28 regulation by the ((committee)) department should afford a reasonable
29 opportunity to each person entitled thereto to recover or receive
30 without causing waste his or her fair and reasonable share of the oil
31 and gas in this tract or tracts or its equivalent.

32 (20) "Royalty" means a right to or interest in oil or gas or the
33 value from or attributable to production, other than the right or
34 interest of a lessee, owner, or operator, as defined herein. Royalty
35 includes, but is not limited to the basic royalty in a lease,
36 overriding royalty, and production payments. Any such interest may be
37 referred to in this chapter as "royalty" or "royalty interest." As
38 used in this chapter "basic royalty" means the royalty reserved in a
39 lease. "Royalty owner" means a person who owns a royalty interest.

1 (21) "Supervisor" means the state oil and gas supervisor.

2 (22) "Unitization" means the operation of all or part of a field or
3 reservoir as a single entity for operating purposes.

4 (23) "Waste" in addition to its ordinary meaning, means and
5 includes:

6 (a) "Physical waste" as that term is generally understood in the
7 petroleum industry;

8 (b) The inefficient, excessive, or improper use of, or unnecessary
9 dissipation of, reservoir energy, and the locating, spacing, drilling,
10 equipping, operating, or producing of any oil or gas well in a manner
11 which results or is probable to result in reducing the quantity of oil
12 or gas to be recovered from any pool in this state under operations
13 conducted in accordance with prudent and proper practices or that
14 causes or tends to cause unnecessary wells to be drilled;

15 (c) The inefficient above-ground storage of oil, and the locating,
16 spacing, drilling, equipping, operating, or producing of any oil or gas
17 well in a manner causing or tending to cause unnecessary or excessive
18 surface loss or destruction of oil or gas;

19 (d) The production of oil or gas in such manner as to cause
20 unnecessary water channeling, or coning;

21 (e) The operation of an oil well with an inefficient gas-oil ratio;

22 (f) The drowning with water of any pool or part thereof capable of
23 producing oil or gas, except insofar as and to the extent authorized by
24 the (~~committee~~) department;

25 (g) Underground waste;

26 (h) The creation of unnecessary fire hazards;

27 (i) The escape into the open air, from a well producing oil or gas,
28 of gas in excess of the amount which is reasonably necessary in the
29 efficient development or production of the well;

30 (j) The use of gas for the manufacture of carbon black, except as
31 provided in RCW 78.52.140;

32 (k) Production of oil and gas in excess of the reasonable market
33 demand;

34 (l) The flaring of gas from gas wells except that which is
35 necessary for the drilling, completing, or testing of the well; and

36 (m) The unreasonable damage to natural resources including but not
37 limited to the destruction of the surface, soils, wildlife, fish, or
38 aquatic life from or by oil and gas operations.

1 **Sec. 910.** RCW 78.52.025 and 1983 c 253 s 3 are each amended to
2 read as follows:

3 The ~~((committee))~~ department shall hold hearings or meetings at
4 such times and places as may be found by the ~~((committee))~~ department
5 to be necessary to carry out its duties. The ~~((committee))~~ department
6 may establish its own rules for the conduct of public hearings or
7 meetings consistent with other applicable law.

8 **Sec. 911.** RCW 78.52.030 and 1951 c 146 s 6 are each amended to
9 read as follows:

10 The ~~((committee shall have the authority and it shall be its duty~~
11 ~~to))~~ department shall employ all personnel necessary to carry out the
12 provisions of this chapter.

13 **Sec. 912.** RCW 78.52.031 and 1983 c 253 s 5 are each amended to
14 read as follows:

15 The ~~((committee shall have the power to))~~ department may subpoena
16 witnesses, ~~((to))~~ administer oaths, and ~~((to))~~ require the production
17 of records, books, and documents for examination at any hearing or
18 investigation conducted by it. No person shall be excused from
19 attending and testifying, or from producing books, papers, and records
20 before the ~~((committee))~~ department or a court, or from obedience to
21 the subpoena of the ~~((committee))~~ department or a court, on the ground
22 or for the reason that the testimony or evidence, documentary or
23 otherwise, required of ~~((him))~~ the person may tend to incriminate
24 ~~((him))~~ the person or subject ~~((him))~~ the person to a penalty or
25 forfeiture: PROVIDED, That nothing herein contained shall be construed
26 as requiring any person to produce any books, papers, or records, or to
27 testify in response to any inquiry not pertinent to some question
28 lawfully before ~~((such committee))~~ the department or court for
29 determination. No person shall be subjected to criminal prosecution or
30 to any penalty or forfeiture for or on account of any transaction,
31 matter, or thing concerning which, in spite of his or her objection, he
32 or she may be required to testify or produce evidence, documentary or
33 otherwise before the ~~((committee))~~ department or court, or in obedience
34 to its subpoena: PROVIDED, HOWEVER, That no person testifying shall be
35 exempt from prosecution and punishment for perjury committed in so
36 testifying.

1 **Sec. 913.** RCW 78.52.032 and 1983 c 253 s 10 are each amended to
2 read as follows:

3 In addition to the powers and authority, either express or implied,
4 granted to the ~~((Washington oil and gas conservation committee))~~
5 department by virtue of the laws of this state, the ~~((committee))~~
6 department may, in prescribing its rules of order or procedure in
7 connection with hearings or other proceedings before the ~~((committee))~~
8 department, provide for the appointment of one or more examiners to
9 conduct a hearing or hearings with respect to any matter properly
10 coming before the ~~((committee))~~ department and to make reports and
11 recommendations to the ~~((committee))~~ department with respect thereto.
12 Any ~~((member))~~ employee of the ~~((committee, or its staff))~~ department
13 or any other person designated by the ~~((committee))~~ commissioner of
14 public lands, or the supervisor when this power is so delegated, may
15 serve as an examiner. The ~~((committee))~~ department shall adopt rules
16 governing hearings to be conducted before examiners.

17 **Sec. 914.** RCW 78.52.033 and 1951 c 146 s 8 are each amended to
18 read as follows:

19 In case of failure or refusal on the part of any person to comply
20 with a subpoena issued by the ~~((committee))~~ department or in case of
21 the refusal of any witness to testify as to any matter regarding which
22 ~~((he))~~ the witness may be interrogated, any superior court in the
23 state, upon the application of the ~~((committee))~~ department, may compel
24 ~~((him))~~ the person to comply with such subpoena, and to attend before
25 the ~~((committee))~~ department and produce such records, books, and
26 documents for examination, and to give his or her testimony and shall
27 have the power to punish for contempt as in the case of disobedience to
28 a like subpoena issued by the court, or for refusal to testify therein.

29 **Sec. 915.** RCW 78.52.035 and 1951 c 146 s 9 are each amended to
30 read as follows:

31 The attorney general shall be the attorney for the ~~((committee;~~
32 ~~PROVIDED,—That))~~ department, but in cases of emergency, the
33 ~~((committee))~~ department may call upon the prosecuting attorney of the
34 county where the action is to be brought, or defended, to represent the
35 ~~((committee))~~ department until such time as the attorney general may
36 take charge of the litigation.

1 **Sec. 916.** RCW 78.52.037 and 1983 c 253 s 4 are each amended to
2 read as follows:

3 (~~The department of natural resources is the designated agent of~~
4 ~~the committee for the purpose of carrying out this chapter. It shall~~
5 ~~administer and enforce this chapter consistent with the policies~~
6 ~~adopted by the committee, together with all rules and orders which the~~
7 ~~committee may adopt and delegate, including but not limited to issuing~~
8 ~~permits, orders, enforcement actions, and other actions or decisions~~
9 ~~authorized to be made under this chapter.)) The department shall
10 designate a state oil and gas supervisor who shall be charged with
11 duties as may be delegated by the department. The department (~~of~~
12 ~~natural resources~~) may designate one or more deputy supervisors and
13 employ all personnel necessary including the appointment of examiners
14 as provided in RCW 78.52.032 to carry out this chapter and the rules
15 and orders of the (~~committee~~) department.~~

16 **Sec. 917.** RCW 78.52.040 and 1983 c 253 s 6 are each amended to
17 read as follows:

18 (~~It shall be the duty of the committee to~~) The department shall
19 administer and enforce the provisions of this chapter by the adoption
20 of policies, and all rules, regulations, and orders promulgated
21 hereunder, and the (~~committee is hereby vested with~~) department has
22 jurisdiction, power, and authority, over all persons and property,
23 public and private, necessary to enforce effectively such duty.

24 **Sec. 918.** RCW 78.52.050 and 1983 c 253 s 7 are each amended to
25 read as follows:

26 The (~~committee shall have authority to~~) department may make such
27 reasonable rules, regulations, and orders as may be necessary from time
28 to time for the proper administration and enforcement of this chapter.
29 Unless otherwise required by law or by this chapter or by rules of
30 procedure made under this chapter, the (~~committee~~) department may
31 make such rules, regulations, and orders, after notice, as the basis
32 therefor. The notice may be given by publication in some newspaper of
33 general circulation in the state in a manner and form which may be
34 prescribed by the (~~committee~~) department by general rule. The public
35 hearing shall be at the time and in the manner and at the place
36 prescribed by the (~~committee~~) department, and any person having any
37 interest in the subject matter of the hearing shall be entitled to be

1 heard. In addition, written notice shall be mailed to all interested
2 persons who have requested, in writing, notice of ((committee))
3 department hearings, rulings, policies, and orders. The ((committee))
4 department shall establish and maintain a mailing list for this
5 purpose. Substantial compliance with these mailing requirements is
6 deemed compliance with (~~the provisions herewith~~) this section.

7 **Sec. 919.** RCW 78.52.070 and 1951 c 146 s 12 are each amended to
8 read as follows:

9 Any interested person shall have the right to have the
10 ((committee)) department call a hearing for the purpose of taking
11 action with respect to any matter within the jurisdiction of the
12 ((committee)) department by filing a verified written petition
13 therefor, which shall state in substance the matter and reasons for and
14 nature of the action requested. Upon receipt of any such request the
15 ((committee)) department, if in its judgment a hearing is warranted and
16 justifiable, shall promptly call a hearing thereon, and after such
17 hearing, and with all convenient speed, and in any event within twenty
18 days after the conclusion of such hearing, shall take such action with
19 regard to the subject matter thereof as it may deem appropriate.

20 **Sec. 920.** RCW 78.52.100 and 1983 c 253 s 8 are each amended to
21 read as follows:

22 All rules, regulations, policies, and orders of the ((committee))
23 department, all petitions, copies of all notices and actions with
24 affidavits of posting, mailing, or publications pertaining thereto, all
25 findings of fact, and transcripts of all hearings shall be in writing
26 and shall be entered in full by the ((committee)) department in the
27 permanent official records of the office of the commissioner of public
28 lands and shall be open for inspection at all times during reasonable
29 office hours. A copy of any rule, regulation, policy, order, or other
30 official records of the ((committee)) department, certified by the
31 (~~executive secretary of the committee~~) commissioner of public lands,
32 shall be received in evidence in all courts of this state with the same
33 effect as the original. The ((committee)) department is hereby
34 required to furnish to any person upon request, copies of all rules,
35 regulations, policies, orders, and amendments thereof.

1 **Sec. 921.** RCW 78.52.120 and 1983 c 253 s 11 are each amended to
2 read as follows:

3 Any person desiring or proposing to drill any well in search of oil
4 or gas, before commencing the drilling of any such well, shall apply to
5 the ~~((committee))~~ department upon such form as the ~~((committee))~~
6 department may prescribe, and shall pay to the state treasurer a fee of
7 the following amounts for each application:

8 (1) For each well the estimated depth of which is three thousand
9 five hundred feet or less, two hundred fifty dollars;

10 (2) From three thousand five hundred one feet to seven thousand
11 feet, five hundred dollars;

12 (3) From seven thousand one feet to twelve thousand feet, seven
13 hundred fifty dollars; and

14 (4) From twelve thousand one feet and deeper, one thousand dollars.

15 In addition, as pertains to the tract upon which the well is
16 proposed to be located, the applicant must notify the surface
17 landowner, the landowner's tenant, and other surface users in the
18 manner provided by regulations of the ~~((committee))~~ department that a
19 drilling permit has been applied for by furnishing each such surface
20 landowner, tenant, and other users with a copy of the application
21 concurrent with the filing of the application. Within fifteen days of
22 receipt of the application, each such surface landowner, the
23 landowner's tenant, and other surface users have the right to inform
24 the ~~((committee))~~ department of objections or comments as to the
25 proposed use of the surface by the applicant, and the ~~((committee))~~
26 department shall consider the objections or comments.

27 The drilling of any well is prohibited until a permit is given and
28 such fee has been paid as ~~((herein))~~ provided in this section. The
29 ~~((committee shall have the authority to))~~ department may prescribe that
30 the said form indicate the exact location of such well, the name and
31 address of the owner, operator, contractor, driller, and any other
32 person responsible for the conduct of drilling operations, the proposed
33 depth of the well, the elevation of the well above sea level, and such
34 other relevant and reasonable information as the ~~((committee))~~
35 department may deem necessary or convenient to effectuate the purposes
36 of this chapter.

37 The ~~((committee))~~ department shall issue a permit if it finds that
38 the proposed drilling will be consistent with this chapter, the
39 rules~~((7))~~ and orders adopted under it, and is not detrimental to the

1 public interest. The ((committee)) department shall impose conditions
2 and restrictions as necessary to protect the public interest and to
3 ensure compliance with this chapter, and the rules and orders adopted
4 by the ((committee)) department. A person shall not apply to drill a
5 well in search of oil or gas unless that person holds an ownership or
6 contractual right to locate and operate the drilling operations upon
7 the proposed drilling site. A person shall not be issued a permit
8 unless that person prima facie holds an ownership or contractual right
9 to drill to the proposed depth, or proposed horizon. Proof of prima
10 facie ownership shall be presented to the ((committee)) department.

11 **Sec. 922.** RCW 78.52.125 and 1971 ex.s. c 180 s 8 are each amended
12 to read as follows:

13 Any person desiring or proposing to drill any well in search of oil
14 or gas, when such drilling would be conducted through or under any
15 surface waters of the state, shall prepare and submit an environmental
16 impact statement upon such form as the department of ecology shall
17 prescribe at least one hundred and twenty days prior to commencing the
18 drilling of any such well. Within ninety days after receipt of such
19 environmental statement the department of ecology shall prepare and
20 submit to ~~((each member of the committee))~~ the department of natural
21 resources a report examining the potential environmental impact of the
22 proposed well and recommendations for ((committee)) department action
23 thereon. If after consideration of the report the ((committee))
24 department determines that the proposed well is likely to have a
25 substantial environmental impact the drilling permit for such well may
26 be denied.

27 The ((committee)) department shall require sufficient safeguards to
28 minimize the hazards of pollution of all surface and ground waters of
29 the state. If safeguards acceptable to the ((committee)) department
30 cannot be provided the drilling permit shall be denied.

31 **Sec. 923.** RCW 78.52.140 and 1951 c 146 s 16 are each amended to
32 read as follows:

33 The use of gas from a well producing gas only, or from a well which
34 is primarily a gas well, for the manufacture of carbon black or similar
35 products predominantly carbon, is declared to constitute waste prima
36 facie, and such gas well shall not be used for any such purpose unless
37 it is clearly shown, at a public hearing to be held by the

1 ((committee)) department, on application of the person desiring to use
2 such gas, that waste would not take place by the use of such gas for
3 the purpose or purposes applied for, and that gas which would otherwise
4 be lost is not available for such purpose or purposes, and that the gas
5 to be used cannot be used for a more beneficial purpose, such as for
6 light or fuel purposes, except at prohibitive cost, and that it would
7 be in the public interest to grant such permit. If the ((committee))
8 department finds that the applicant has clearly shown a right to use
9 such gas for the purpose or purposes applied for, it shall issue a
10 permit upon such terms and conditions as may be found necessary in
11 order to permit the use of the gas, and at the same time require
12 compliance with the intent of this section.

13 **Sec. 924.** RCW 78.52.150 and 1951 c 146 s 17 are each amended to
14 read as follows:

15 The ~~((committee has authority, and it shall be its duty, to))~~
16 department shall make such investigations as it may deem proper to
17 determine whether waste exists or is imminent or whether other facts
18 exist which justify action by the ((committee)) department.

19 **Sec. 925.** RCW 78.52.155 and 1983 c 253 s 9 are each amended to
20 read as follows:

21 (1) The ((committee)) department shall make investigations as
22 necessary to carry out this chapter.

23 (2) The ~~((committee and the))~~ department~~((, consistent with the~~
24 ~~committee's policies,))~~ shall require:

25 (a) Identification of ownership of oil or gas wells, producing
26 leases, tanks, plants, structures, and facilities for the
27 transportation or refining of oil or gas;

28 (b) The making and filing of well logs, core samples, directional
29 surveys, and reports on well locations, drilling, and production;

30 (c) The testing of oil and gas wells;

31 (d) The drilling, casing, operating, and plugging of wells in such
32 a manner as to prevent the escape of oil or gas out of the casings, or
33 out of one pool into another, the intrusion of water into an oil or gas
34 pool, and the pollution of freshwater supplies by oil, gas, or
35 saltwater and to prevent blowouts, cavings, seepages, and fires;

36 (e) The furnishing of adequate security acceptable to the
37 department, conditioned on the performance of the duty to plug each dry

1 or abandoned well, the duty to reclaim and clean-up well drilling
2 sites, the duty to repair wells causing waste, the duty to comply with
3 all applicable laws and rules adopted by the ((committee)) department,
4 orders of the ((committee and the)) department, all permit conditions,
5 and this chapter;

6 (f) The operation of wells with efficient gas-oil and water-oil
7 ratios and may fix these ratios and limit production from wells with
8 inefficient gas-oil or water-oil ratios;

9 (g) The production of oil and gas from wells be accurately measured
10 by means and upon standards prescribed by the ((committee)) department,
11 and that every person who produces, sells, purchases, acquires, stores,
12 transports, treats, or processes oil or gas in this state keeps and
13 maintains for a period of five years within this state complete and
14 accurate records thereof, which records shall be available for
15 examination by the ((committee)) department or its agents at all
16 reasonable times, and that every person file with the ((committee))
17 department such reports as it may prescribe with respect to the oil or
18 gas; and

19 (h) Compliance with all applicable laws and rules of this state.

20 (3) The ((committee and the department, consistent with the
21 committee's policies,)) department shall regulate:

22 (a) The drilling, producing, locating, spacing, and plugging of
23 wells and all other operations for the production of oil or gas;

24 (b) The physical, mechanical, and chemical treatment of wells, and
25 the perforation of wells;

26 (c) Operations to increase ultimate recovery such as cycling of
27 gas, the maintenance of pressure, and the introduction of gas, water,
28 or other substances into producing formations;

29 (d) Disposal of saltwater and oil field brines;

30 (e) The storage, processing, and treatment of natural gas and oil
31 produced within this state; and

32 (f) Reclamation and clean-up of all well sites and any areas
33 directly affected by the drilling, production, operation, and plugging
34 of oil and gas wells.

35 (4) The ((committee)) department may limit and prorate oil and gas
36 produced in this state and may restrict future production of oil and
37 gas from any pool in such amounts as will offset and compensate for any
38 production determined by the ((committee)) department to be in excess
39 of or in violation of "oil allowable" or "gas allowable."

1 (5) The ((committee)) department shall classify wells as oil or gas
2 wells for purposes material to the interpretation or enforcement of
3 this chapter.

4 (6) The ~~((committee and the department, consistent with the~~
5 ~~committee's policies,))~~ department shall regulate oil and gas
6 exploration and drilling activities so as to prevent or remedy
7 unreasonable or excessive waste or surface destruction.

8 **Sec. 926.** RCW 78.52.200 and 1983 c 253 s 12 are each amended to
9 read as follows:

10 When necessary to prevent waste, to avoid the drilling of
11 unnecessary wells, or to protect correlative rights including those of
12 royalty owners, the ((committee)) department, upon its own motion or
13 upon application of interested persons, shall establish development
14 units covering any known pool. Development units shall be of uniform
15 size and shape for the entire pool unless the ((committee)) department
16 finds that it must make an exception due to geologic, geographic, or
17 other factors. When necessary, the ((committee)) department may divide
18 any pool into zones and establish development units for each zone,
19 which units may differ in size and shape from those established in any
20 other zone.

21 **Sec. 927.** RCW 78.52.205 and 1983 c 253 s 13 are each amended to
22 read as follows:

23 Within sixty days after the discovery of oil or gas in a pool not
24 then covered by an order of the ((committee)) department, a hearing
25 shall be held and the ((committee)) department shall issue an order
26 prescribing development units for the pool. If sufficient geological
27 or other scientific data from drilling operations or other evidence is
28 not available to determine the maximum area that can be efficiently and
29 economically drained by one well, the ((committee)) department may
30 establish temporary development units to ensure the orderly development
31 of the pool pending availability of the necessary data. A temporary
32 order shall continue in force for a period of not more than twenty-four
33 months at the expiration of which time, or upon the petition of an
34 affected person, the ((committee)) department shall require the
35 presentation of such geological, scientific, drilling, or other
36 evidence as will enable it to determine the proper development units in
37 the pool. During the interim period between the discovery and the

1 issuance of the temporary order, permits shall not be issued for the
2 drilling of direct offsets to a discovery well.

3 **Sec. 928.** RCW 78.52.210 and 1983 c 253 s 14 are each amended to
4 read as follows:

5 (1) The size and the shape of any development units shall be such
6 as will result in the efficient and economical development of the pool
7 as a whole, and the size shall not be smaller than the maximum area
8 that can be efficiently and economically drained by one well as
9 determined by competent geological, geophysical, engineering, drilling,
10 or other scientific testimony, data, and evidence. The ((committee))
11 department shall fix a development unit of not more than one hundred
12 sixty acres for any pool deemed by the ((committee)) department to be
13 an oil reservoir, or of six hundred forty acres for any pool deemed by
14 the ((committee)) department to be a gas reservoir, plus a ten percent
15 tolerance in either case to allow for irregular sections. The
16 ((committee)) department may, at its discretion, after notice and
17 hearing, establish development units for oil and gas in variance of
18 these limitations when competent geological, geophysical, engineering,
19 drilling, or other scientific testimony, data, and evidence is
20 presented and upon a finding that one well can efficiently and
21 economically drain a larger or smaller area and is justified because of
22 technical, economic, environmental, or safety considerations.

23 (2) The ((committee)) department may establish development units of
24 different sizes or shapes for different parts of a pool or may grant
25 exceptions to the size or shapes of any development unit or units.
26 Where development units of different sizes or shapes exist in a pool,
27 the ((committee)) department shall, if necessary, make such adjustments
28 to the allowable production from the well or wells drilled thereon so
29 that each operator in each development unit will have a reasonable
30 opportunity to produce or receive his or her just and equitable share
31 of the production.

32 **Sec. 929.** RCW 78.52.220 and 1983 c 253 s 15 are each amended to
33 read as follows:

34 An order establishing development units for a pool shall specify
35 the size and shape of each area and the location of the permitted well
36 thereon in accordance with a reasonable uniform spacing plan. Upon
37 application and after notice and a hearing, if the ((committee))

1 department finds that a well drilled at the prescribed location would
2 not produce in paying quantities, or that surface conditions would
3 substantially add to the burden or hazard of drilling such well, the
4 (~~committee is authorized to~~) department may enter an order permitting
5 the well to be drilled pursuant to permit at a location other than that
6 prescribed by such development order; however, the (~~committee~~)
7 department shall include in the order suitable provisions to prevent
8 the production from the development unit of more than its just and
9 equitable share of the oil and gas in the pool.

10 **Sec. 930.** RCW 78.52.230 and 1983 c 253 s 16 are each amended to
11 read as follows:

12 An order establishing development units for a pool shall cover all
13 lands determined or believed to be underlaid by such pool, and may be
14 modified by the (~~committee~~) department from time to time to include
15 additional areas determined to be underlaid by such pool. When the
16 (~~committee~~) department determines that it is necessary for the
17 prevention of waste, or to avoid the drilling of unnecessary wells, or
18 to protect correlative rights, an order establishing development units
19 in a pool may be modified by the (~~committee~~) department to increase
20 or decrease the size of development units in the pool or to permit the
21 drilling of additional wells on a reasonably uniform plan in the pool.

22 **Sec. 931.** RCW 78.52.240 and 1983 c 253 s 17 are each amended to
23 read as follows:

24 When two or more separately-owned tracts are embraced within a
25 development unit, or when there are separately owned interests in all
26 or a part of the development unit, then the owners and lessees thereof
27 may pool their interests for the development and operation of the
28 development unit. In the absence of this voluntary pooling, the
29 (~~committee~~) department, upon the application of any interested
30 person, shall enter an order pooling all interests, including royalty
31 interests, in the development unit for the development and operation
32 thereof. Each such pooling order shall be made after notice and
33 hearing. The applicant or applicants shall have the burden of proving
34 that all reasonable efforts have been made to obtain the consent of, or
35 to reach agreement with, other owners.

1 **Sec. 932.** RCW 78.52.245 and 1983 c 253 s 18 are each amended to
2 read as follows:

3 A pooling order shall be upon terms and conditions that are fair
4 and reasonable and that afford to each owner and royalty owner his or
5 her fair and reasonable share of production. Production shall be
6 allocated as follows:

7 (1) For the purpose of determining the portions of production owned
8 by the persons owning interests in the pooled unit, the production
9 shall be allocated to the respective tracts within the unit in the
10 proportion that the surface acres in each tract bear to the number of
11 surface acres included in the entire unit.

12 (2) Notwithstanding subsection (1) of this section, if the
13 ((committee)) department finds that allocation on a surface acreage
14 basis does not allocate to each tract its fair share, the ((committee))
15 department shall allocate the production so that each tract will
16 receive its fair share.

17 **Sec. 933.** RCW 78.52.250 and 1983 c 253 s 19 are each amended to
18 read as follows:

19 (1) Each such pooling order shall make provision for the drilling
20 and operation of a well on the development unit, and for the payment of
21 the reasonable actual cost thereof by the owners of interests required
22 to pay such costs in the development unit, plus a reasonable charge for
23 supervision and storage facilities. Costs associated with production
24 from the pooled unit shall be allocated in the same manner as is
25 production in RCW 78.52.245. In the event of any dispute as to such
26 costs the ((committee)) department shall determine the proper costs.

27 (2) As to each owner who fails or refuses to agree to bear his or
28 her proportionate share of the costs of the drilling and operation of
29 the well, the order shall provide for reimbursement of those persons
30 paying for the drilling and operation of the well of the nonconsenting
31 owner's share of the costs from, and only from, production from the
32 unit representing that person's interest, excluding royalty or other
33 interests not obligated to pay any part of the cost thereof. The
34 ((committee)) department may provide that the consenting owners shall
35 own and be entitled to receive all production from the well after
36 payment of the royalty as provided in the lease, if any, applicable to
37 each tract or interest, and obligations payable from production, until

1 the consenting owners have been paid the amount due under the terms of
2 the pooling order or order settling any dispute.

3 The order shall determine the interest of each owner in the unit
4 and shall provide that each consenting owner is entitled to receive,
5 subject to royalty or similar obligations, the share of the production
6 of the well applicable to the owner's interest in the unit, and, unless
7 the owner has agreed otherwise, his or her proportionate part of the
8 nonconsenting owner's share of the production until costs are recovered
9 as provided in this subsection. Each nonconsenting owner is entitled
10 to receive, subject to royalty or similar obligations, the share of
11 production from the well applicable to the owner's interest in the unit
12 after the consenting owners have recovered from the nonconsenting
13 owner's share of production the following:

14 (a) In respect to every such well, one hundred percent of the
15 nonconsenting owner's share of the cost of surface equipment beyond the
16 wellhead connections, including but not limited to, stock tanks,
17 separators, treaters, pumping equipment, and piping, plus one hundred
18 percent of the nonconsenting owner's share of the cost of operation of
19 the well, commencing with first production and continuing until the
20 consenting owners have recovered these costs, with the intent that the
21 nonconsenting owner's share of these costs and equipment will be that
22 interest which would have been chargeable to the nonconsenting owner
23 had he or she initially agreed to pay his or her share of the costs of
24 the well from the beginning of the operation;

25 (b) One hundred fifty percent of that portion of the costs and
26 expenses of staking the location, well site preparation, rights of way,
27 rigging-up, drilling, reworking, deepening or plugging back, testing,
28 and completing, after deducting any cash contributions received by the
29 consenting owners, and also one hundred fifty percent of that portion
30 of the cost of equipment in the well, up to and including the wellhead
31 connections; and

32 (c) If there is a dispute regarding the costs, the ((committee))
33 department shall determine the proper costs and their allocation among
34 working interest owners after due notice to interested parties and a
35 hearing on the costs.

36 (3) The operator of a well under a pooling order in which there are
37 nonconsenting owners shall furnish the nonconsenting owners with
38 monthly statements of all costs incurred, together with the quantity of
39 oil or gas produced, and the amount of proceeds realized from the sale

1 of this production during the preceding month. If and when the
2 consenting owners recover from a nonconsenting owner's relinquished
3 interest the amounts provided for in subsection (2) of this section,
4 the relinquished interest of the nonconsenting owner shall
5 automatically revert to him or her, and the nonconsenting owner shall
6 own the same interest in the well and the production from it and be
7 liable for the further costs of the operation as if he or she had
8 participated in the initial drilling and operation.

9 (4) A nonconsenting owner of a tract in a development unit which is
10 not subject to any lease or other contract for the development thereof
11 for oil and gas shall elect within fifteen days of the issuance of the
12 pooling order or such further time as the ((committee)) department
13 shall, in the order, allow:

14 (a) To be treated as a nonconsenting owner as provided in
15 subsections (2) and (3) of this section and is deemed to have a basic
16 landowners' royalty of one-eighth, or twelve and one-half percent, of
17 the production allocated to the tract, unless a higher basic royalty
18 has been established in the development unit. If a higher royalty has
19 been established, then the nonconsenting owner of a nonleased tract
20 shall receive the higher basic royalty. This presumed royalty shall
21 exist only during the time that costs and expenses are being recovered
22 under subsection (2) of this section, and is intended to assure that
23 the owner of a nonleased tract receive a basic royalty free of all
24 costs at all times. Notwithstanding anything herein to the contrary,
25 the owner shall at all times retain his or her entire ownership of the
26 property, including the right to execute an oil and gas lease on any
27 terms negotiated, and be entitled to all production subject to
28 subsection (2) of this section; or

29 (b) To grant a lease to the operator at the current fair market
30 value for that interest for comparable leases or interests at the time
31 of the commencement of drilling; or

32 (c) To pay his or her pro rata share of the costs of the well or
33 wells in the development unit and receive his or her pro rata share of
34 production, if any.

35 A nonconsenting owner who does not make an election as provided in
36 this subsection is deemed to have elected to be treated under (a) of
37 this subsection.

1 **Sec. 934.** RCW 78.52.257 and 1983 c 253 s 22 are each amended to
2 read as follows:

3 (1) An order pooling a development unit shall automatically
4 dissolve:

5 (a) One year after its effective date if there has been no
6 production of commercial quantities or drilling operations on lands
7 within the unit;

8 (b) Six months after completion of a dry hole on the unit; or

9 (c) Six months after cessation of production of commercial
10 quantities from the unit, unless, prior to the expiration of such six-
11 month period, the operator shall, in good faith, commence drilling or
12 reworking operations in an effort to restore production.

13 (2) Upon the termination of a lease pooled by order of the
14 (~~committee~~) department under authority granted in this chapter,
15 interests covered by the lease are considered pooled as unleased
16 mineral interests.

17 (3) Any party to a pooling order is entitled, after due notice to
18 all parties, to a hearing to modify or terminate a previously entered
19 pooling order upon presenting new evidence showing that the previous
20 determination of reservoir conclusions are substantially incorrect.

21 (4) The (~~committee, in its discretion~~) department, after notice
22 and hearing, may grant additional time, for good cause shown, before a
23 pooling order is automatically dissolved as provided in subsection (1)
24 of this section. In no case may such an extension be longer than six
25 months.

26 **Sec. 935.** RCW 78.52.260 and 1951 c 146 s 28 are each amended to
27 read as follows:

28 Whenever the (~~committee shall~~) department requires the making and
29 filing of well logs, directional surveys, or reports on the drilling
30 of, subsurface conditions found in, or reports with respect to the
31 substance produced, or capable of being produced from, a "wildcat" or
32 "exploratory" well, as those terms are used in the petroleum industry,
33 such logs, surveys, reports, or information shall be kept confidential
34 by the (~~committee~~) department for a period of one year, if at the
35 time of filing such logs, surveys, reports, or other information, the
36 owner, lessee, or operator of such well requests that such information
37 be kept confidential: PROVIDED, HOWEVER, That the (~~committee shall~~
38 ~~have the right to~~) department may divulge or use such information in

1 a public hearing or suit when it is necessary for the enforcement of
2 the provisions of this chapter or any rule, regulation, or order made
3 hereunder.

4 **Sec. 936.** RCW 78.52.270 and 1951 c 146 s 29 are each amended to
5 read as follows:

6 Whenever the total amount of oil which all of the pools in this
7 state can currently produce in accordance with good operating
8 practices, exceeds the amount reasonably required to meet the
9 reasonable market demand, the ((committee)) department shall limit the
10 oil which may be currently produced in this state to an amount,
11 designated the "oil allowable((±))." The ((committee)) department
12 shall then prorate this "oil allowable" among the pools on a reasonable
13 basis, avoiding undue discrimination among the pools, and so that waste
14 will be prevented. In determining the "oil allowable((±)), and in
15 prorating such "oil allowable" among the pools in the state, the
16 ((committee)) department shall take into account the producing
17 conditions and other relevant facts with respect to such pools,
18 including the separate needs for oil and gas, and separate needs for
19 oil of particular kinds or qualities, and shall formulate rules setting
20 forth standards or a program for the determination of the "oil
21 allowable((±)), and shall prorate the "oil allowable" in accordance
22 with such standards or program, and where conditions in one pool or
23 area are substantially similar to those in another pool or area, then
24 the same standards or program shall be applied to such pools or areas
25 so that as far as practicable a uniform program will be followed:
26 PROVIDED, HOWEVER, That if the amount prorated to a pool as its share
27 of the "oil allowable" is in excess of the amount which the pool can
28 efficiently produce currently, then the ((committee)) department shall
29 prorate to such pool the maximum amount which can be efficiently
30 produced currently without waste.

31 **Sec. 937.** RCW 78.52.280 and 1951 c 146 s 30 are each amended to
32 read as follows:

33 The ((committee)) department shall not be required to determine the
34 reasonable market demand applicable to any single pool of oil except in
35 relation to all pools producing oil of similar kind and quality and in
36 relation to the reasonable market demand. The ((committee)) department
37 shall prorate the "allowable" in such manner as will prevent undue

1 discrimination against any pool or area in favor of another or others
2 resulting from selective buying or nomination by purchasers.

3 **Sec. 938.** RCW 78.52.290 and 1951 c 146 s 31 are each amended to
4 read as follows:

5 Whenever the total amount of gas which all of the pools in this
6 state can currently produce in accordance with good operating practice
7 exceeds the amount reasonably required to meet the reasonable market
8 demand, the ((committee)) department shall limit the gas which may be
9 currently produced to an amount, designated as the "gas
10 allowable((^u)), " which will not exceed the reasonable market demand for
11 gas. The ((committee)) department shall then prorate the "gas
12 allowable" among the pools on a reasonable basis, avoiding undue
13 discrimination among the pools, and so that waste will be prevented,
14 giving due consideration to location of pipe lines, cost of
15 interconnecting such pipe lines, and other pertinent factors, and
16 insofar as applicable, the provisions of RCW 78.52.270 shall be
17 followed in determining the "gas allowable" and in prorating such "gas
18 allowable" among the pools therein: PROVIDED, HOWEVER, That in
19 determining the reasonable market demand for gas as between pools, the
20 ((committee)) department shall give due regard to the fact that gas
21 produced from oil pools is to be regulated in a manner which will
22 protect the reasonable use of gas energy for oil production and promote
23 the most or maximum efficient recovery of oil from such pools.

24 **Sec. 939.** RCW 78.52.300 and 1951 c 146 s 32 are each amended to
25 read as follows:

26 Whenever the total amount of gas which may be currently produced
27 from all of the pools in this state has not been limited as hereinabove
28 provided, and the available production from any one pool containing gas
29 only is in excess of the reasonable market demand or available
30 transportation facilities for gas from such pool, the ((committee))
31 department shall limit the production of gas from such pool to that
32 amount which does not exceed the reasonable market demand or
33 transportation facilities for gas from such pool.

34 **Sec. 940.** RCW 78.52.310 and 1951 c 146 s 33 are each amended to
35 read as follows:

1 Whenever the ((committee)) department limits the total amount of
2 oil or gas which may be produced from any pool to an amount less than
3 that which the pool could produce if no restrictions were imposed
4 (whether incidental to, or without, a limitation of the total amount of
5 oil which may be produced in the state) the ((committee)) department
6 shall prorate the allowable production for the pool among the producers
7 in the pool on a reasonable basis, so that each producer will have
8 opportunity to produce or receive his or her just and equitable share,
9 subject to the reasonable necessities for the prevention of waste,
10 giving where reasonable, under the circumstances, to each pool with
11 small wells of settled production, allowable production which prevents
12 the premature abandonment of wells in the pool.

13 All orders establishing the "oil allowable" and "gas allowable" for
14 this state, and all orders prorating such allowables as herein
15 provided, and any changes thereof, for any month or period shall be
16 issued by the ((committee)) department on or before the fifteenth day
17 of the month preceding the month for which such orders are to be
18 effective, and such orders shall be immediately published in some
19 newspaper of general circulation printed in Olympia, Washington. No
20 orders establishing such allowables, or prorating such allowables, or
21 any changes thereof, shall be issued without first having a hearing,
22 after notice, as provided in this chapter: PROVIDED, HOWEVER, When in
23 the judgment of the ((committee)) department, an emergency requiring
24 immediate action is found to exist, the ~~((committee is authorized to))~~
25 department may issue an emergency order under this section which shall
26 have the same effect and validity as if a hearing with respect to the
27 same had been held after due notice. The emergency order permitted by
28 this ~~((subsection))~~ section shall remain in force no longer than thirty
29 days, and in any event it shall expire when the order made after due
30 notice and hearing with respect to the subject matter of the emergency
31 order becomes effective.

32 **Sec. 941.** RCW 78.52.320 and 1951 c 146 s 34 are each amended to
33 read as follows:

34 Whenever the production of oil or gas in this state or any pool
35 therein is limited and the "oil allowable" or "gas allowable" is
36 established and prorated by the ((committee)) department as provided in
37 RCW 78.52.310, no person shall thereafter produce from any well, pool,
38 lease, or property more than the production which is prorated thereto.

1 **Sec. 942.** RCW 78.52.330 and 1951 c 146 s 35 are each amended to
2 read as follows:

3 To assist in the development of oil and gas in this state and to
4 further the purposes of this chapter, the persons owning interests in
5 separate tracts of land, may validly agree to integrate their interests
6 and manage, operate, and develop their land as a unit, subject to the
7 approval of the ~~((committee))~~ department.

8 **Sec. 943.** RCW 78.52.335 and 1983 c 253 s 23 are each amended to
9 read as follows:

10 (1) The ~~((committee))~~ department shall upon the application of any
11 interested person, or upon its own motion, hold a hearing to consider
12 the need for the operation as a unit of one or more pools or parts of
13 them in a field.

14 (2) The ~~((committee shall have the authority to))~~ department may
15 enter an order providing for the unit operations if ~~((the committee))~~
16 it finds that:

17 (a) The unit operations are necessary for secondary recovery or
18 enhanced recovery purposes. For purposes of this chapter secondary or
19 enhanced recovery means that oil or gas or both are recovered by any
20 method, artificial flowing or pumping, that may be employed to produce
21 oil or gas, or both, through the joint use of two or more wells with an
22 application of energy extrinsic to the pool or pools. This includes
23 pressuring, cycling, pressure maintenance, or injections into the pool
24 or pools of a substance or form of energy: PROVIDED, That this does
25 not include the injection in a well of a substance or form of energy
26 for the sole purpose of (i) aiding in the lifting of fluids in the
27 well, or (ii) stimulation of the reservoir at or near the well by
28 mechanical, chemical, thermal, or explosive means;

29 (b) The unit operations will protect correlative rights;

30 (c) The operations will increase the ultimate recovery of oil or
31 gas, or will prevent waste, or will prevent the drilling of unnecessary
32 wells; and

33 (d) The value of the estimated additional recovery of oil and/or
34 gas exceeds the estimated additional cost incident to conducting these
35 operations.

36 (3) The ~~((committee shall also have the authority to))~~ department
37 may also enter an order providing for unit operations, after notice and

1 hearing, only if the ((committee)) department finds that there is clear
2 and convincing evidence that all of the following conditions are met:

3 (a) In the absence of unitization, the ultimate recovery of oil or
4 gas, or both, will be substantially decreased because normal production
5 techniques and methods are not feasible and will not result in the
6 maximum efficient and economic recovery of oil or gas, or both;

7 (b) The unit operations will protect correlative rights;

8 (c) The unit operations will prevent waste, or will prevent the
9 drilling of unnecessary wells;

10 (d) There has been a discovery of a commercial oil or gas field;
11 and

12 (e) There has been sufficient exploration, drilling activity, and
13 development to properly define the one or more pools or parts of them
14 in a field proposed to be unitized.

15 (4) Notwithstanding any of the above, nothing in this chapter may
16 be construed to prevent the voluntary agreement of all interested
17 persons to any plan of unit operations. The ((committee)) department
18 shall approve operations upon making a finding consistent with
19 subsection((s)) (2) (b) and (c) of this section.

20 (5) The order shall be upon terms and conditions that are fair and
21 reasonable and shall prescribe a plan for unit operations that
22 includes:

23 (a) A description of the pool or pools or parts thereof to be so
24 operated, termed the unitized area;

25 (b) A statement of the nature of the operations contemplated;

26 (c) An allocation of production and costs to the separately-owned
27 tracts in the unitized area. The allocation shall be in accord with
28 the agreement, if any, of the interested parties. If there is no
29 agreement, production shall be allocated in a manner calculated to
30 ensure that each owner's correlative rights are protected, and each
31 separately-owned tract or combination of tracts receives its fair and
32 reasonable share of production. Costs shall be allocated on a fair and
33 reasonable basis;

34 (d) A provision, if necessary, prescribing fair, reasonable, and
35 equitable terms and conditions as to time and rate of interest for
36 carrying or otherwise financing any person who is unable to promptly
37 meet his or her financial obligations in connection with the unit, such
38 carrying and interest charges to be paid as provided by the

1 ((committee)) department from the person's prorated share of
2 production;

3 (e) A provision for the supervision and conduct of the unit
4 operations, in respect to which each owner shall have a vote with a
5 value corresponding to the percentage of the costs of unit operations
6 chargeable against the owner's interest;

7 (f) The time when the unit operations shall commence, the timetable
8 for development, and the manner and circumstances under which the unit
9 operations shall terminate; and

10 (g) Additional provisions which are found to be appropriate for
11 carrying out the unit operations and for the protection of correlative
12 rights.

13 (6) No order of the ((committee)) department providing for unit
14 operations may become effective until:

15 (a) The plan for unit operations approved by the ((committee))
16 department has been approved in writing by those persons who, under the
17 ((committee's)) department's order, will be required to pay at least
18 seventy-five percent of the costs of unit operations;

19 (b) The plan has been approved in writing by those persons such as
20 royalty owners, overriding royalty owners, and production payment
21 owners, who own at least seventy-five percent of the production or
22 proceeds thereof that will be credited to interests that are free of
23 costs; and

24 (c) The ((committee)) department has made a finding, either in the
25 order providing for unit operations or in a supplemental order, that
26 the plan for unit operations has been so approved. If the plan for
27 unit operations has not been so approved at the time the order
28 providing for unit operations is made, the ((committee)) department
29 shall upon application and notice hold such supplemental hearings as
30 may be required to determine if and when the plan for unit operations
31 has been so approved. If the persons owning required percentages of
32 interest in the unitized area do not approve the plan for unit
33 operations within a period of six months from the date on which the
34 order providing for unit operations is made, or within such additional
35 period or periods of time as the ((committee)) department prescribes,
36 the order will become unenforceable and shall be vacated by the
37 ((committee)) department.

38 (7) An order providing for unit operations may be amended by an
39 order made by the ((committee)) department in the same manner and

1 subject to the same conditions as an original order, except as provided
2 in subsection (8) of this section, providing for unit operations, but
3 (a) if such an amendment affects only the rights and interests of the
4 owners, the approval of the amendment by those persons who own
5 interests that are free of costs is not required, and (b) no such
6 amending order may change the percentage for the allocation of oil and
7 gas as established for any separately-owned tract or combination of
8 tracts by the original order, except with the consent of all persons
9 owning oil and gas rights in the tract, and no such order may change
10 the percentage for the allocation of cost as established for any
11 separately-owned tract or combination of tracts by the original order,
12 except with the consent of all persons owning an interest in the tract
13 or combination of tracts. An amendment that provides for the expansion
14 of the unit area shall comply with subsection (8) of this section.

15 (8) The ((committee)) department, by order, may provide for the
16 unit operation of a reservoir or reservoirs or parts thereof that
17 include a unitized area established by a previous order of the
18 ((committee)) department. The order, in providing for the allocation
19 of unit production, shall first treat the unitized area previously
20 established as a single tract and the portion of the new unit
21 production allocated thereto shall then be allocated among the
22 separately-owned tracts included in the previously established unit
23 area in the same proportions as those specified in the previous order.

24 (9) After the date designated by the ((committee)) department the
25 unit plan shall be effective, oil and gas leases within the unit area,
26 or other contracts pertaining to the development thereof, shall be
27 changed only to the extent necessary to meet the requirements of the
28 unit plan, and otherwise shall remain in full force. Operations
29 carried on under and in accordance with the unit plan shall be regarded
30 and considered as fulfillment of and compliance with all of the
31 provisions, covenants, and conditions, expressed or implied, of the
32 several oil and gas leases upon lands within the unit area, or other
33 contracts pertaining to the development thereof, insofar as the leases
34 or other contracts may relate to the pool or field subject to the unit
35 plan. The amount of production apportioned and allocated under the
36 unit plan to each separately-owned tract within the unit area, and only
37 that amount, regardless of the location of the well within the unit
38 area from which it may be produced, and regardless of whether it is
39 more or less than the amount of production from the well, if any, on

1 each separately-owned tract, shall for all purposes be regarded as
2 production from the separately-owned tract. Lessees shall not be
3 obligated to pay royalties or make other payments, required by the oil
4 and gas leases or other contracts affecting each such separately-owned
5 tract, on production in excess of that amount apportioned and allocated
6 to the separately-owned tract under the unit plan.

7 (10) The portion of the unit production allocated to any tract and
8 the proceeds from its sale are the property and income of the several
9 persons to whom, or to whose credit, the portion and proceeds are
10 allocated or payable under the order providing for unit operations.

11 (11) No division order or other contract relating to the sale,
12 purchase, or production from a separately-owned tract or combination of
13 tracts may be terminated by the order providing for unit operations but
14 shall remain in force and shall apply to oil and gas allocated to the
15 tract until terminated by an amended division order or contract in
16 accordance with the order.

17 (12) Except to the extent that parties affected so agree, an order
18 providing for unit operations shall not be construed to result in a
19 transfer of all or any part of the title of any person to the oil and
20 gas rights in any tract in the unit area. All property, whether real
21 or personal, that may be acquired in the conduct of unit operations
22 hereunder shall be acquired for the account of the owners within the
23 unit area, and shall be the property of those owners in the proportion
24 that the expenses of unit operations are charged.

25 (13) After the date designated by the order of the ((committee))
26 department that a unit plan shall become effective, the designation of
27 one or more unit operators shall be by vote of the lessees of land in
28 the unit area, in a manner to be provided in the unit plan, and any
29 operations in conflict with such unit plan shall be unlawful and are
30 prohibited.

31 (14) A certified copy of any order of the ((committee)) department
32 entered under this section is entitled to be recorded in the auditor's
33 office in the county or counties wherein all or any portion of the unit
34 area is located and, if recorded, constitute notice thereof to all
35 persons. A copy of this order shall be mailed by certified mail to all
36 interested persons.

37 (15) No order for unitization may be construed to allow the
38 drilling of a well on a tract within the unit which is not leased or
39 under contract for oil and gas exploration or production.

1 **Sec. 944.** RCW 78.52.365 and 1983 c 253 s 26 are each amended to
2 read as follows:

3 The ((committee)) department may administer and enforce RCW
4 78.52.345 and 78.52.355 in accordance with the procedures in this
5 chapter for its enforcement and with the rules and orders of the
6 ((committee)) department.

7 **Sec. 945.** RCW 78.52.460 and 1951 c 146 s 49 are each amended to
8 read as follows:

9 No plan for the operation of a field or pool of oil or gas as a
10 unit, either whole or in part, created or approved by the ((committee
11 hereunder shall)) department under this chapter may be held to violate
12 any of the statutes of this state prohibiting monopolies or acts,
13 arrangements, agreements, contracts, combinations, or conspiracies in
14 restraint of trade or commerce.

15 **Sec. 946.** RCW 78.52.463 and 1989 c 175 s 167 are each amended to
16 read as follows:

17 (1) Any operation or activity that is in violation of applicable
18 laws, rules, orders, or permit conditions is subject to suspension by
19 order of the ((committee)) department. The order may suspend the
20 operations authorized in the permit in whole or in part. The order may
21 be issued only after the ((committee)) department has first notified
22 the operator or owner of the violations and the operator or owner has
23 failed to comply with the directions contained in the notification
24 within ten days of service of the notice: PROVIDED, That the
25 ((committee)) department may issue the suspension order immediately
26 without notice if the violations are or may cause substantial harm to
27 adjacent property, persons, or public resources, or has or may result
28 in the pollution of waters in violation of any state or federal law or
29 rule. A suspension shall remain in effect until the violations are
30 corrected or other directives are complied with unless declared invalid
31 by the ((committee)) department after hearing or an appeal. The
32 suspension order and notification, where applicable, shall specify the
33 violations and the actions required to be undertaken to be in
34 compliance with such laws, rules, orders, or permit conditions. The
35 order and notification may also require remedial actions to be
36 undertaken to restore, prevent, or correct activities or conditions

1 which have resulted from the violations. The order and notification
2 may be directed to the operator or owner or both.

3 (2) The suspension order constitutes a final and binding order
4 unless the owner or operator to whom the order is directed requests a
5 hearing before the ((committee)) department within fifteen days after
6 service of the order. Such a request shall not in itself stay or
7 suspend the order and the operator or owner shall comply with the order
8 immediately upon service. The ((committee or its chairman have the
9 authority to)) department may stay or suspend in whole or in part the
10 suspension order pending a hearing if so requested. The hearing shall
11 constitute an adjudicative proceeding under chapter 34.05 RCW, the
12 Administrative Procedure Act.

13 **Sec. 947.** RCW 78.52.467 and 1983 c 253 s 30 are each amended to
14 read as follows:

15 (1) The sale, purchase, acquisition, transportation, refining,
16 processing, or handling of illegal oil, gas, or product is prohibited.
17 However, no penalty by way of fine may be imposed upon a person who
18 sells, purchases, acquires, transports, refines, processes, or handles
19 illegal oil, gas, or product unless (a) the person knows, or is put on
20 notice of, facts indicating that illegal oil, illegal gas, or illegal
21 product is involved, or (b) the person fails to obtain a certificate of
22 clearance with respect to the oil, gas, or product if prescribed by
23 rule or order of the ((committee)) department, or fails to follow any
24 other method prescribed by an order of the ((committee)) department for
25 the identification of the oil, gas, or product.

26 (2) Illegal oil, illegal gas, and illegal product are declared to
27 be contraband and are subject to seizure and sale as provided in this
28 section. Seizure and sale shall be in addition to all other remedies
29 and penalties provided in this chapter for violations relating to
30 illegal oil, illegal gas, or illegal product. If the ((committee))
31 department believes that any oil, gas, or product is illegal, the
32 ((committee)) department acting through the attorney general, shall
33 bring a civil action in rem in the superior court of the county in
34 which the oil, gas, or product is found, to seize and sell the same, or
35 the ((committee)) department may include such an action in rem in any
36 suit brought for an injunction or penalty involving illegal oil,
37 illegal gas, or illegal product. A person claiming an interest in oil,

1 gas, or product affected by an action in rem has the right to intervene
2 as an interested party.

3 (3) Actions for the seizure and sale of illegal oil, illegal gas,
4 or illegal product shall be strictly in rem and shall proceed in the
5 name of the state as plaintiff against the oil, gas, or product as
6 defendant. No bond or similar undertaking may be required of the
7 plaintiff. Upon the filing of the petition for seizure and sale, the
8 clerk of the court shall issue a summons, with a copy of the petition
9 attached thereto, directed to the sheriff of the county or to another
10 officer or person whom the court may designate, for service upon all
11 persons having or claiming any interest in the oil, gas, or product
12 described in the petition. The summons shall command these persons to
13 appear and answer within twenty days after the issuance and service of
14 the summons. These persons need not be named or otherwise identified
15 in the summons, and the summons shall be served by posting a copy of
16 the summons, with a copy of the petition attached, on any public
17 bulletin board or at the courthouse of a county where the oil, gas, or
18 product involved is located, and by posting another copy at or near the
19 place where the oil, gas, or product is located. The posting
20 constitutes notice of the action to all persons having or claiming any
21 interest in the oil, gas, or product described in the petition. In
22 addition, if the court, on a properly verified petition, or affidavit
23 or affidavits, or oral testimony, finds that grounds for seizure and
24 for sale exist, the court shall issue an immediate order of seizure,
25 describing the oil, gas, or product to be seized, and directing the
26 sheriff of the county to take the oil, gas, or product into the
27 sheriff's actual or constructive custody and to hold the same subject
28 to further orders of the court. The court, in the order of seizure,
29 may direct the sheriff to deliver the oil, gas, or product seized by
30 him or her under the order to a court-appointed agent. The agent shall
31 give bond in an amount and with such surety as the court may direct,
32 conditioned upon compliance with the orders of the court concerning the
33 custody and disposition of the oil, gas, or product.

34 (4) Any person having an interest in oil, gas, or product described
35 in order of seizure and contesting the right of the state to seize and
36 sell the oil, gas, or product may obtain its release prior to sale upon
37 furnishing to the sheriff a bond approved by the court. The bond shall
38 be in an amount equal to one hundred fifty percent of the market value
39 of the oil, gas, or product to be released and shall be conditioned

1 upon either redelivery to the sheriff of the released commodity or
2 payment to the sheriff of its market value, if and when ordered by the
3 court, and upon full compliance with further orders of the court.

4 (5) If the court, after a hearing upon a petition for the seizure
5 and sale of oil, gas, or product, finds that the oil, gas, or product
6 is contraband, the court shall order its sale by the sheriff in the
7 same manner and upon the same notice of sale as provided by law for the
8 sale of personal property on execution of judgment entered in a civil
9 action, except that the court may order that the oil, gas, or product
10 be sold in specified lots or portions and at specified intervals. Upon
11 sale, title to the oil, gas, or product sold shall vest in the
12 purchaser free of all claims, and it shall be legal oil, legal gas, or
13 legal product in the hands of the purchaser.

14 (6) All proceeds, less costs of suit and expenses of sale, which
15 are derived from the sale of illegal oil, illegal gas, or illegal
16 product, and all amounts paid as penalties provided for by this
17 chapter, shall be paid into the state treasury for the use of the
18 ((committee)) department in defraying its expenses in the same manner
19 as other funds provided by law for the use of the ((committee))
20 department.

21 **Sec. 948.** RCW 78.52.470 and 1989 c 175 s 168 are each amended to
22 read as follows:

23 Any person adversely affected by any order of the ((committee))
24 department may, within thirty days from the effective date of such
25 order, apply for a hearing with respect to any matter determined
26 therein. No cause for action arising out of any order of the
27 ((committee—shall)) department accrues in any court to any person
28 unless the person makes application for a hearing as ((herein))
29 provided in this section. Such application shall set forth
30 specifically the ground on which the applicant considers the order to
31 be unlawful or unreasonable. No party shall, in any court, urge or
32 rely upon any ground not set forth in said application. An order made
33 in conformity to a decision resulting from a hearing which abrogates,
34 changes, or modifies the original order shall have the same force and
35 effect as an original. Such hearing shall constitute an adjudicative
36 proceeding under chapter 34.05 RCW, the Administrative Procedure Act,
37 and shall be conducted in accordance with its provisions.

1 **Sec. 949.** RCW 78.52.480 and 1983 c 253 s 28 are each amended to
2 read as follows:

3 In proceedings for review of an order or decision of the
4 ~~((committee))~~ department, the ~~((committee))~~ department shall be a party
5 to the proceedings and shall have all rights and privileges granted by
6 this chapter to any other party to such proceedings.

7 **Sec. 950.** RCW 78.52.490 and 1983 c 253 s 32 are each amended to
8 read as follows:

9 Within thirty days after the application for a hearing is denied,
10 or if the application is granted, then within thirty days after the
11 rendition of the decision on the hearing, the applicant may apply to
12 the superior court, at the petitioner's option, for (a) Thurston
13 county, (b) the county of petitioner's residence or place of business,
14 or (c) in any county where the property or property rights owned by the
15 petitioner is located for a review of such rule, regulation, order, or
16 decision. The application for review shall be filed in the office of
17 the clerk of the superior court of Thurston county and shall
18 specifically state the grounds for review upon which the applicant
19 relies and shall designate the rule, regulation, order, or decision
20 sought to be reviewed. The applicant shall immediately serve a
21 certified copy of said application upon the ~~((executive secretary of
22 the committee))~~ commissioner of public lands who shall immediately
23 notify all parties who appeared in the proceedings before the
24 ~~((committee))~~ department that such application for review has been
25 filed. In the event the court determines the review is solely for the
26 purpose of determining the validity of a rule or regulation of general
27 applicability the court shall transfer venue to Thurston county for a
28 review of such rule or regulation in the manner provided for in RCW
29 ~~((34.05.538))~~ 34.05.570.

30 **Sec. 951.** RCW 78.52.530 and 1951 c 146 s 56 are each amended to
31 read as follows:

32 Whenever it shall appear that any person is violating any
33 provisions of this chapter, or any rule, regulation, or order made by
34 the ~~((committee hereunder))~~ department under this chapter, and if the
35 ~~((committee))~~ department cannot, without litigation, effectively
36 prevent further violation, the ~~((committee))~~ department may bring suit
37 in the name of the state against such person in the superior court in

1 the county of the residence of the defendant, or in the county of the
2 residence of any defendant if there be more than one defendant, or in
3 the county where the violation is alleged to have occurred, to restrain
4 such person from continuing such violation. In such suit the
5 (~~committee~~) department may without bond obtain injunctions
6 prohibitory and mandatory, including temporary restraining orders and
7 preliminary injunctions, as the facts may warrant.

8 **Sec. 952.** RCW 78.52.540 and 1951 c 146 s 57 are each amended to
9 read as follows:

10 (~~In the event the committee should~~) If the department fails to
11 bring suit within thirty days to enjoin any apparent violation of this
12 chapter, or of any rule, regulation, or order made by the (~~committee~~
13 ~~hereunder~~) department under this chapter, then any person or party in
14 interest adversely affected by such violation, who has requested the
15 (~~committee~~) department in writing to sue, may, to prevent any or
16 further violation, bring suit for that purpose in the superior court of
17 any county where the (~~committee~~) department could have instituted
18 such suit. If, in such suit, the court should hold that injunctive
19 relief should be granted, then the state shall be made a party and
20 shall be substituted for the person who brought the suit, and the
21 injunction shall be issued as if the state had at all times been the
22 complainant.

23 **OIL SPILL CONTINGENCY PLAN CORPORATION**

24 NEW SECTION. **Sec. 953.** A new section is added to chapter 88.46
25 RCW to read as follows:

26 A nonprofit corporation established for the sole purpose of
27 providing contingency plan coverage for any vessel in compliance with
28 RCW 88.46.060 is entitled to liability protection as provided in this
29 section. Obligations incurred by the corporation and any other
30 liabilities or claims against the corporation may be enforced only
31 against the assets of the corporation, and no liability for the debts
32 or actions of the corporation exists against a director, officer,
33 member, employee, incident commander, agent, contractor, or
34 subcontractor of the corporation in his or her individual or
35 representative capacity. Except as otherwise provided in this chapter,
36 neither the directors, officers, members, employees, incident

1 commander, or agents of the corporation, nor the business entities by
2 whom they are regularly employed may be held individually responsible
3 for discretionary decisions, errors in judgment, mistakes, or other
4 acts, either of commission or omission, that are directly related to
5 the operation or implementation of contingency plans, other than for
6 acts of gross negligence or willful or wanton misconduct. The
7 corporation may insure and defend and indemnify the directors,
8 officers, members, employees, incident commanders, and agents to the
9 extent permitted by chapters 23B.08 and 24.03 RCW. This section does
10 not alter or limit the responsibility or liability of any person for
11 the operation of a motor vehicle.

12

MARINE SAFETY COMMITTEES

13 NEW SECTION. **Sec. 954.** A new section is added to chapter 88.46
14 RCW to read as follows:

15 The administrator may appoint ad hoc, advisory marine safety
16 committees to solicit recommendations and technical advice concerning
17 vessel traffic safety. The office may implement recommendations made
18 in regional marine safety plans that are approved by the office and
19 over which the office has authority. If federal authority or action is
20 required to implement the recommendations, the office may petition the
21 appropriate agency or the Congress.

SCIENTIFIC ADVISORY BOARD FOR THE OIL SPILL COMPENSATION SCHEDULE

23 **Sec. 955.** RCW 90.48.366 and 1992 c 73 s 28 are each amended to
24 read as follows:

25 By July 1, 1991, the department, in consultation with the
26 departments of fisheries, wildlife, and natural resources, and the
27 parks and recreation commission, shall adopt rules establishing a
28 compensation schedule for the discharge of oil in violation of this
29 chapter and chapter 90.56 RCW. (~~The department shall establish a
30 scientific advisory board to assist in establishing the compensation
31 schedule.~~) The amount of compensation assessed under this schedule
32 shall be no less than one dollar per gallon of oil spilled and no
33 greater than fifty dollars per gallon of oil spilled. The compensation
34 schedule shall reflect adequate compensation for unquantifiable damages
35 or for damages not quantifiable at reasonable cost for any adverse

1 environmental, recreational, aesthetic, or other effects caused by the
2 spill and shall take into account:

3 (1) Characteristics of any oil spilled, such as toxicity,
4 dispersibility, solubility, and persistence, that may affect the
5 severity of the effects on the receiving environment, living organisms,
6 and recreational and aesthetic resources;

7 (2) The sensitivity of the affected area as determined by such
8 factors as: (a) The location of the spill; (b) habitat and living
9 resource sensitivity; (c) seasonal distribution or sensitivity of
10 living resources; (d) areas of recreational use or aesthetic
11 importance; (e) the proximity of the spill to important habitats for
12 birds, aquatic mammals, fish, or to species listed as threatened or
13 endangered under state or federal law; (f) significant archaeological
14 resources as determined by the office of archaeology and historic
15 preservation; and (g) other areas of special ecological or recreational
16 importance, as determined by the department. If the department has
17 adopted rules for a compensation table prior to July 1, 1992, the
18 sensitivity of significant archaeological resources shall only be
19 included among factors to be used in the compensation table when the
20 department revises the rules for the compensation table after July 1,
21 1992; and

22 (3) Actions taken by the party who spilled oil or any party liable
23 for the spill that: (a) Demonstrate a recognition and affirmative
24 acceptance of responsibility for the spill, such as the immediate
25 removal of oil and the amount of oil removed from the environment; or
26 (b) enhance or impede the detection of the spill, the determination of
27 the quantity of oil spilled, or the extent of damage, including the
28 unauthorized removal of evidence such as injured fish or wildlife.

29 **TASK FORCE ON STATE-WIDE EVALUATION OF IRRIGATED AREAS**

30 **Sec. 956.** RCW 90.54.190 and 1989 c 348 s 11 are each amended to
31 read as follows:

32 (1) (~~The department of ecology may establish a task force to~~
33 ~~assist in a state wide evaluation of irrigated areas, not to exceed six~~
34 ~~months in duration, to determine the associated impacts of efficiency~~
35 ~~measures, efficiency opportunities, and local interest.)) The
36 department ((and the task force)) shall establish a list of basin and~~

1 stream efficiency initiatives and select an irrigation area for a
2 voluntary demonstration project.

3 (2) Prior to conducting conservation assessments and developing
4 conservation plans, the department of ecology shall secure technical
5 and financial assistance from the bureau of reclamation to reduce the
6 costs to the state to the extent possible.

7 (3) A "conservation assessment" as described in this section shall
8 be conducted before a demonstration project to increase the efficiency
9 of irrigated agriculture is undertaken for an irrigated area, a basin,
10 subbasin, or stream. The conservation assessment should:

11 (a) Evaluate existing patterns, including current reuse of return
12 flows, and priorities of water use;

13 (b) Assess conflicting needs for future water allocations and
14 claims to reserved rights;

15 (c) Evaluate hydrologic characteristics of surface and ground water
16 including return flow characteristics;

17 (d) Assess alternative efficiency measures;

18 (e) Determine the likely net water savings of efficiency
19 improvements including the amount and timing of water that would be
20 saved and potential benefits and impacts to other water uses and
21 resources including effects on artificial recharge of ground water and
22 wetland impacts;

23 (f) Evaluate the full range of costs and benefits that would accrue
24 from various measures; and

25 (g) Evaluate the potential for integrating conservation efforts
26 with operation of existing or potential storage facilities.

27 (4) The conservation assessment shall be used as the basis for
28 development of a demonstration conservation plan to rank conservation
29 elements based on relative costs, benefits, and impacts. It shall also
30 estimate the costs of implementing the plan and propose a specific
31 basis for cost share distributions.

32 The demonstration conservation plan shall be developed jointly by
33 the department and a conservation plan formulation committee consisting
34 of representatives of a cross-section of affected local water users,
35 members of the public, and tribal governments. Other public agencies
36 with expertise in water resource management may participate as
37 nonvoting committee members. A proposed demonstration conservation
38 plan may be approved by the department and the committee only after
39 public comment has been received.

1 (5) The department shall reimburse any members ((of the task force
2 in subsection (2) [(1)] of this section or)) of the committee in
3 subsection (4) of this section who are not representing governmental
4 agencies or entities for their travel expenses in accordance with RCW
5 43.03.050 and 43.03.060.

6 NEW SECTION. **Sec. 957.** Broker's Trust Account Board. RCW
7 18.85.500 and 1987 c 513 s 8 are each repealed.

8 NEW SECTION. **Sec. 958.** Washington State Heritage Council. The
9 following acts or parts of acts are each repealed:

- 10 (1) RCW 27.34.030 and 1983 c 91 s 3;
11 (2) RCW 27.34.040 and 1993 c 101 s 11 & 1983 c 91 s 4; and
12 (3) RCW 27.34.050 and 1983 c 91 s 5.

13 NEW SECTION. **Sec. 959.** Supply Management Advisory Board. RCW
14 43.19.1902 and 1979 c 151 s 97, 1975-'76 2nd ex.s. c 21 s 3, 1967 ex.s.
15 c 104 s 3, & 1965 c 8 s 43.19.1902 are each repealed.

16 NEW SECTION. **Sec. 960.** Motor Vehicle Advisory Committee. RCW
17 43.19.556 and 1989 c 57 s 4 are each repealed.

18 NEW SECTION. **Sec. 961.** Ecological Commission. The following acts
19 or parts of acts are each repealed:

- 20 (1) RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217, 1988 c 36 s 15,
21 1985 c 466 s 50, 1979 c 141 s 68, & 1970 ex.s. c 62 s 17;
22 (2) RCW 43.21A.180 and 1984 c 287 s 76, 1975-'76 2nd ex.s. c 34 s
23 100, & 1970 ex.s. c 62 s 18;
24 (3) RCW 43.21A.190 and 1988 c 127 s 24 & 1970 ex.s. c 62 s 19;
25 (4) RCW 43.21A.200 and 1977 c 75 s 47 & 1970 ex.s. c 62 s 20; and
26 (5) RCW 43.21A.210 and 1970 ex.s. c 62 s 21.

27 NEW SECTION. **Sec. 962.** Nuclear Waste Advisory Council. RCW
28 43.200.050 and 1989 c 322 s 4, 1984 c 161 s 6, & 1983 1st ex.s. c 19 s
29 5 are each repealed.

30 NEW SECTION. **Sec. 963.** Athletic Health Care and Training Council.
31 The following acts or parts of acts are each repealed:

- 32 (1) RCW 43.230.010 and 1990 c 33 s 583 & 1984 c 286 s 2;

- 1 (2) RCW 43.230.020 and 1984 c 286 s 3;
2 (3) RCW 43.230.030 and 1984 c 286 s 4;
3 (4) RCW 43.230.040 and 1984 c 286 s 5; and
4 (5) 1984 c 286 s 13 (uncodified).

5 NEW SECTION. **Sec. 964.** Insurance Advisory Examining Board. RCW
6 48.17.135 and 1984 c 287 s 96, 1975-'76 2nd ex.s. c 34 s 142, & 1967 c
7 150 s 14 are each repealed.

8 NEW SECTION. **Sec. 965.** Right-to-Know Advisory Council. The
9 following acts or parts of acts are each repealed:

- 10 (1) RCW 49.70.120 and 1987 c 24 s 1, 1985 c 409 s 5, & 1984 c 289
11 s 17; and
12 (2) RCW 49.70.130 and 1984 c 289 s 18.

13 NEW SECTION. **Sec. 966.** Winter Recreation Commission. The
14 following acts or parts of acts are each repealed:

- 15 (1) RCW 67.34.011 and 1987 c 526 s 1; and
16 (2) RCW 67.34.021 and 1987 c 526 s 2.

17 NEW SECTION. **Sec. 967.** Science Advisory Board. RCW 70.94.039 and
18 1991 c 199 s 314 are each repealed.

19 NEW SECTION. **Sec. 968.** Korean War Veterans' Memorial Advisory
20 Committee. The following acts or parts of acts are each repealed:

- 21 (1) RCW 73.40.020 and 1984 c 81 s 2; and
22 (2) RCW 73.40.050 and 1989 c 235 s 2.

23 NEW SECTION. **Sec. 969.** Oil and Gas Conservation Committee. RCW
24 78.52.020 and 1988 c 128 s 49, 1983 c 253 s 31, 1971 ex.s. c 180 s 7,
25 1961 c 300 s 7, & 1951 c 146 s 4 are each repealed.

26 NEW SECTION. **Sec. 970.** Washington State Maritime Commission. The
27 following acts or parts of acts are each repealed, effective July 1,
28 1995:

- 29 (1) RCW 88.44.005 and 1990 c 117 s 1;
30 (2) RCW 88.44.010 and 1992 c 73 s 15, 1991 c 200 s 901, & 1990 c
31 117 s 2;
32 (3) RCW 88.44.020 and 1991 c 200 s 902 & 1990 c 117 s 3;

- 1 (4) RCW 88.44.030 and 1991 c 200 s 903 & 1990 c 117 s 4;
- 2 (5) RCW 88.44.040 and 1991 c 200 s 904 & 1990 c 117 s 5;
- 3 (6) RCW 88.44.080 and 1991 c 200 s 905 & 1990 c 117 s 9;
- 4 (7) RCW 88.44.090 and 1990 c 117 s 10;
- 5 (8) RCW 88.44.100 and 1992 c 73 s 16 & 1990 c 117 s 11;
- 6 (9) RCW 88.44.110 and 1992 c 73 s 17, 1991 c 200 s 906, & 1990 c
- 7 117 s 12;
- 8 (10) RCW 88.44.120 and 1990 c 117 s 13;
- 9 (11) RCW 88.44.130 and 1990 c 117 s 14;
- 10 (12) RCW 88.44.140 and 1990 c 117 s 15;
- 11 (13) RCW 88.44.150 and 1990 c 117 s 16;
- 12 (14) RCW 88.44.160 and 1991 c 200 s 907 & 1990 c 117 s 17;
- 13 (15) RCW 88.44.170 and 1990 c 117 s 18;
- 14 (16) RCW 88.44.180 and 1990 c 117 s 19;
- 15 (17) RCW 88.44.190 and 1990 c 117 s 20;
- 16 (18) RCW 88.44.200 and 1990 c 117 s 21;
- 17 (19) RCW 88.44.210 and 1990 c 117 s 22;
- 18 (20) RCW 88.44.220 and 1990 c 117 s 23;
- 19 (21) RCW 88.44.900 and 1990 c 117 s 24; and
- 20 (22) RCW 88.44.901 and 1990 c 117 s 25.

21 NEW SECTION. **Sec. 971.** Regional Marine Safety Committees. RCW
22 88.46.110 and 1992 c 73 s 24 & 1991 c 200 s 424 are each repealed.

23 NEW SECTION. **Sec. 972.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 973.** Headings and captions used in this act
28 constitute no part of the law.

29 NEW SECTION. **Sec. 974.** This act takes effect July 1, 1994."

30 **ESHB 2676** - S COMM AMD
31 By Committee on Government Operations

32

1 On page 1, line 2 of the title, after "councils;" strike the
2 remainder of the title and insert "amending RCW 18.25.005, 18.25.006,
3 18.25.019, 18.25.020, 18.25.025, 18.25.030, 18.25.035, 18.25.040,
4 18.25.070, 18.25.075, 18.25.180, 18.25.190, 18.32.010, 18.32.030,
5 18.32.040, 18.32.050, 18.32.100, 18.32.120, 18.32.160, 18.32.180,
6 18.32.190, 18.32.195, 18.32.215, 18.32.534, 18.32.640, 18.32.655,
7 18.32.665, 18.32.745, 18.32.755, 18.71.010, 18.71.017, 18.71.019,
8 18.71.050, 18.71.051, 18.71.055, 18.71.060, 18.71.070, 18.71.085,
9 18.71.090, 18.71.095, 18.71.205, 18.71.230, 18.71A.010, 18.71A.020,
10 18.71A.030, 18.71A.040, 18.71A.045, 18.71A.050, 18.71A.060, 18.71A.085,
11 18.72.155, 18.72.165, 18.72.265, 18.72.301, 18.72.306, 18.72.311,
12 18.72.316, 18.72.340, 18.72.345, 18.19.070, 4.24.240, 7.70.020,
13 18.06.010, 18.06.020, 18.06.045, 18.06.080, 18.06.090, 18.06.110,
14 18.06.120, 18.06.130, 18.06.140, 18.06.190, 18.06.200, 18.55.020,
15 18.84.020, 18.84.040, 18.84.070, 18.84.090, 18.84.110, 18.89.020,
16 18.89.050, 18.89.080, 18.135.030, 18.138.070, 7.70.020, 18.130.010,
17 18.130.020, 18.130.040, 18.130.300, 4.24.260, 4.24.290, 5.62.010,
18 18.50.032, 18.50.040, 18.50.140, 18.50.115, 18.88A.020, 18.88A.030,
19 18.88A.060, 18.88A.080, 18.88A.085, 18.88A.090, 18.88A.130, 18.89.040,
20 18.100.140, 18.120.020, 18.135.020, 28A.210.260, 28A.210.280,
21 28A.210.290, 28C.10.030, 41.05.075, 41.05.180, 42.17.316, 43.70.220,
22 48.20.393, 48.20.411, 48.21.141, 48.21.225, 48.44.026, 48.44.290,
23 48.44.325, 48.46.275, 69.41.030, 69.45.010, 69.50.101, 69.50.402,
24 70.02.030, 70.41.200, 70.41.210, 70.41.230, 70.127.250, 70.180.030,
25 71.24.025, 74.09.290, 74.42.010, 74.42.230, 74.42.240, 74.42.380,
26 41.04.395, 43.19.558, 43.19.554, 70.148.030, 70.175.030, 78.52.010,
27 78.52.025, 78.52.030, 78.52.031, 78.52.032, 78.52.033, 78.52.035,
28 78.52.037, 78.52.040, 78.52.050, 78.52.070, 78.52.100, 78.52.120,
29 78.52.125, 78.52.140, 78.52.150, 78.52.155, 78.52.200, 78.52.205,
30 78.52.210, 78.52.220, 78.52.230, 78.52.240, 78.52.245, 78.52.250,
31 78.52.257, 78.52.260, 78.52.270, 78.52.280, 78.52.290, 78.52.300,
32 78.52.310, 78.52.320, 78.52.330, 78.52.335, 78.52.365, 78.52.460,
33 78.52.463, 78.52.467, 78.52.470, 78.52.480, 78.52.490, 78.52.530,
34 78.52.540, 90.48.366, and 90.54.190; reenacting and amending RCW
35 18.71.015, 18.71.030, 18.71.080, 18.88A.100, 69.41.010, 71.05.210, and
36 75.30.050; adding new sections to chapter 18.25 RCW; adding new
37 sections to chapter 18.32 RCW; adding new sections to chapter 18.71
38 RCW; adding a new section to chapter 18.130 RCW; adding a new section
39 to chapter 75.30 RCW; adding new sections to chapter 88.46 RCW; adding

1 new chapters to Title 18 RCW; creating new sections; recodifying RCW
2 18.25.120, 18.25.130, 18.25.140, 18.25.150, 18.25.160, 18.25.170,
3 18.72.155, 18.72.165, 18.72.265, 18.72.301, 18.72.306, 18.72.311,
4 18.72.316, 18.72.340, 18.72.345, 18.72.010, 18.72.321, 18.72.380,
5 18.72.390, and 18.72.400; repealing RCW 18.25.015, 18.25.016,
6 18.25.017, 18.26.010, 18.26.020, 18.26.028, 18.26.030, 18.26.040,
7 18.26.050, 18.26.060, 18.26.070, 18.26.080, 18.26.090, 18.26.110,
8 18.26.320, 18.26.330, 18.26.340, 18.26.350, 18.26.360, 18.26.370,
9 18.26.380, 18.26.390, 18.26.900, 18.32.035, 18.32.037, 18.32.042,
10 18.32.500, 18.32.510, 18.32.520, 18.32.560, 18.32.570, 18.32.580,
11 18.32.590, 18.32.600, 18.32.610, 18.32.620, 18.72.020, 18.72.045,
12 18.72.090, 18.72.100, 18.72.110, 18.72.120, 18.72.130, 18.72.150,
13 18.72.154, 18.72.190, 18.72.900, 18.72.910, 18.78.005, 18.78.010,
14 18.78.020, 18.78.030, 18.78.040, 18.78.050, 18.78.054, 18.78.055,
15 18.78.058, 18.78.060, 18.78.070, 18.78.072, 18.78.080, 18.78.090,
16 18.78.100, 18.78.160, 18.78.182, 18.78.225, 18.78.900, 18.78.901,
17 18.88.010, 18.88.020, 18.88.030, 18.88.050, 18.88.060, 18.88.070,
18 18.88.080, 18.88.086, 18.88.090, 18.88.100, 18.88.110, 18.88.120,
19 18.88.130, 18.88.140, 18.88.150, 18.88.160, 18.88.170, 18.88.175,
20 18.88.190, 18.88.200, 18.88.220, 18.88.270, 18.88.280, 18.88.285,
21 18.88.290, 18.88.295, 18.88.300, 18.88.900, 18.88A.070, 18.06.170,
22 18.84.060, 18.89.070, 18.138.080, 18.85.500, 27.34.030, 27.34.040,
23 27.34.050, 43.19.1902, 43.19.556, 43.21A.170, 43.21A.180, 43.21A.190,
24 43.21A.200, 43.21A.210, 43.200.050, 43.230.010, 43.230.020, 43.230.030,
25 43.230.040, 48.17.135, 49.70.120, 49.70.130, 67.34.011, 67.34.021,
26 70.94.039, 73.40.020, 73.40.050, 78.52.020, 88.44.005, 88.44.010,
27 88.44.020, 88.44.030, 88.44.040, 88.44.080, 88.44.090, 88.44.100,
28 88.44.110, 88.44.120, 88.44.130, 88.44.140, 88.44.150, 88.44.160,
29 88.44.170, 88.44.180, 88.44.190, 88.44.200, 88.44.210, 88.44.220,
30 88.44.900, 88.44.901, and 88.46.110; repealing 1984 c 286 s 13
31 (uncodified); prescribing penalties; and providing an effective date."

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