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**ENGROSSED SUBSTITUTE HOUSE BILL 2676**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Appropriations (originally sponsored by Representatives Dunshee, Reams, Anderson, Patterson, Bray, R. Meyers, Basich, Johanson, Pruitt, Ogden, Wolfe, G. Cole, Moak, Valle, H. Myers, Kremen, Silver, Kessler, Conway, Cothorn, Morris, Rayburn and J. Kohl; by request of Governor Lowry)

Read first time 02/04/94.

1       AN ACT Relating to the restructuring of boards, committees,  
2 commissions, and councils; 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, 18.06.080, 18.55.020,  
13 18.84.020, 18.84.040, 18.84.070, 18.84.090, 18.84.110, 18.89.020,  
14 18.89.050, 18.89.080, 18.135.030, 18.138.070, 18.130.010, 18.130.020,  
15 18.130.040, 18.130.300, 4.24.260, 4.24.290, 5.62.010, 18.50.032,  
16 18.50.040, 18.50.140, 18.50.115, 18.88A.020, 18.88A.030, 18.88A.060,  
17 18.88A.080, 18.88A.085, 18.88A.090, 18.88A.130, 18.89.040, 18.100.140,  
18 18.120.020, 18.135.020, 28A.210.260, 28A.210.280, 28A.210.290,  
19 28C.10.030, 41.05.075, 41.05.180, 42.17.316, 43.70.220, 48.20.393,  
20 48.20.411, 48.21.141, 48.21.225, 48.44.026, 48.44.290, 48.44.325,  
21 48.46.275, 69.41.030, 69.45.010, 69.50.101, 69.50.402, 70.02.030,

1 70.41.200, 70.41.210, 70.41.230, 70.127.250, 70.180.030, 71.24.025,  
2 74.09.290, 74.42.010, 74.42.230, 74.42.240, 74.42.380, 41.04.395,  
3 43.19.558, 43.19.554, 70.148.030, 70.175.030, 78.52.010, 78.52.025,  
4 78.52.030, 78.52.031, 78.52.032, 78.52.033, 78.52.035, 78.52.037,  
5 78.52.040, 78.52.050, 78.52.070, 78.52.100, 78.52.120, 78.52.125,  
6 78.52.140, 78.52.150, 78.52.155, 78.52.200, 78.52.205, 78.52.210,  
7 78.52.220, 78.52.230, 78.52.240, 78.52.245, 78.52.250, 78.52.257,  
8 78.52.260, 78.52.270, 78.52.280, 78.52.290, 78.52.300, 78.52.310,  
9 78.52.320, 78.52.330, 78.52.335, 78.52.365, 78.52.460, 78.52.463,  
10 78.52.467, 78.52.470, 78.52.480, 78.52.490, 78.52.530, 78.52.540,  
11 90.48.366, and 90.54.190; reenacting and amending RCW 18.71.015,  
12 18.71.030, 18.71.080, 18.71.030, 18.88A.100, 69.41.010, 71.05.210, and  
13 75.30.050; adding new sections to chapter 18.25 RCW; adding new  
14 sections to chapter 18.32 RCW; adding a new section to chapter 18.71  
15 RCW; adding a new section to chapter 75.30 RCW; adding new sections to  
16 chapter 88.46 RCW; creating new sections; adding a new chapter to Title  
17 18 RCW; recodifying RCW 18.25.120, 18.25.130, 18.25.140, 18.25.150,  
18 18.25.160, 18.25.170, 18.72.155, 18.72.165, 18.72.265, 18.72.301,  
19 18.72.306, 18.72.311, 18.72.316, 18.72.340, 18.72.345, 18.72.010,  
20 18.72.321, 18.72.380, 18.72.390, and 18.72.400; repealing RCW  
21 18.25.015, 18.25.016, 18.25.017, 18.26.010, 18.26.020, 18.26.028,  
22 18.26.030, 18.26.040, 18.26.050, 18.26.060, 18.26.070, 18.26.080,  
23 18.26.090, 18.26.110, 18.26.320, 18.26.330, 18.26.340, 18.26.350,  
24 18.26.360, 18.26.370, 18.26.380, 18.26.390, 18.26.900, 18.32.035,  
25 18.32.037, 18.32.042, 18.32.500, 18.32.510, 18.32.520, 18.32.560,  
26 18.32.570, 18.32.580, 18.32.590, 18.32.600, 18.32.610, 18.32.620,  
27 18.72.020, 18.72.045, 18.72.090, 18.72.100, 18.72.110, 18.72.120,  
28 18.72.130, 18.72.150, 18.72.154, 18.72.190, 18.72.900, 18.72.910,  
29 18.78.005, 18.78.010, 18.78.020, 18.78.030, 18.78.040, 18.78.050,  
30 18.78.054, 18.78.055, 18.78.058, 18.78.060, 18.78.070, 18.78.072,  
31 18.78.080, 18.78.090, 18.78.100, 18.78.160, 18.78.182, 18.78.225,  
32 18.78.900, 18.78.901, 18.88.010, 18.88.020, 18.88.030, 18.88.050,  
33 18.88.060, 18.88.070, 18.88.080, 18.88.086, 18.88.090, 18.88.100,  
34 18.88.110, 18.88.120, 18.88.130, 18.88.140, 18.88.150, 18.88.160,  
35 18.88.170, 18.88.175, 18.88.190, 18.88.200, 18.88.220, 18.88.270,  
36 18.88.280, 18.88.285, 18.88.290, 18.88.295, 18.88.300, 18.88.900,  
37 18.88A.070, 18.06.170, 18.84.060, 18.89.070, 18.138.080, 18.85.500,  
38 27.34.030, 27.34.040, 27.34.050, 43.19.1902, 43.19.556, 43.21A.170,  
39 43.21A.180, 43.21A.190, 43.21A.200, 43.21A.210, 43.200.050, 43.230.010,

1 43.230.020, 43.230.030, 43.230.040, 48.17.135, 49.70.120, 49.70.130,  
2 67.34.011, 67.34.021, 70.94.039, 73.40.020, 73.40.050, 78.52.020,  
3 88.44.005, 88.44.010, 88.44.020, 88.44.030, 88.44.040, 88.44.080,  
4 88.44.090, 88.44.100, 88.44.110, 88.44.120, 88.44.130, 88.44.140,  
5 88.44.150, 88.44.160, 88.44.170, 88.44.180, 88.44.190, 88.44.200,  
6 88.44.210, 88.44.220, 88.44.900, 88.44.901, and 88.46.110; repealing  
7 1984 c 286 s 13 (uncodified); prescribing penalties; and providing an  
8 effective date.

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

10

### CHIROPRACTIC

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

13 This chapter is enacted:

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

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

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

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

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

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

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

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

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

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

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

1       **Sec. 103.** RCW 18.25.006 and 1992 c 241 s 3 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) "Department" means the department of health.

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

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

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

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

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

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

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

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

34       (10) "Extremity manipulation" means a corrective thrust or maneuver  
35 applied to a joint of the appendicular skeleton. The use of extremity  
36 manipulation shall be complementary and preparatory to a chiropractic  
37 spinal adjustment to support correction of a vertebral subluxation  
38 complex and is considered a part of a spinal adjustment and shall not  
39 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 18.06.080 and 1992 c 110 s 3 are each amended to  
21 read as follows:

22 (1) The secretary is hereby authorized and empowered to execute the  
23 provisions of this chapter and shall offer examinations in acupuncture  
24 at least twice a year at such times and places as the secretary may  
25 select. The examination shall be a written examination and may include  
26 a practical examination.

27 (2) The secretary shall develop or approve a certification  
28 examination in the subjects that the secretary determines are within  
29 the scope of and commensurate with the work performed by certified  
30 acupuncturists and shall include but not necessarily be limited to  
31 anatomy, physiology, microbiology, biochemistry, pathology, hygiene,  
32 and acupuncture. All application papers shall be deposited with the  
33 secretary and there retained for at least one year, when they may be  
34 destroyed.

35 (3) If the examination is successfully passed, the secretary shall  
36 confer on such candidate the title of Certified Acupuncturist.



1 by the ocularist or service provider selling or fitting, or both, said  
2 prosthesis to a patient or customer. "Altered" is as defined in  
3 subsection ~~((+6+))~~ (5) of this section. A modified stock-eye cannot be  
4 defined as either a "custom" or "impression-fitted" eye or prosthesis  
5 by adding material that incorporates an impression-surface of the  
6 patient or customer socket or implant surfaces.

7 ~~((+8+))~~ (7) "Custom-eye" means an original, newly manufactured eye  
8 or prosthesis that has been specifically crafted by an ocularist or  
9 authorized service provider for the patient or customer to whom it is  
10 sold or provided. The "custom-eye" may be either an impression-fitted  
11 eye (an impression of the socket or implant surfaces) or an  
12 empirical/wax pattern-fitted method eye, or a combination of either, as  
13 delineated in the ocularist examination.

14 **RADIOLOGIC TECHNOLOGISTS**

15 **Sec. 505.** RCW 18.84.020 and 1991 c 222 s 2 are each amended to  
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in  
18 this section apply throughout this chapter.

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

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

21 (3) "Licensed practitioner" means any licensed health care  
22 practitioner performing services within the person's authorized scope  
23 of practice.

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

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

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

34 (c) Nuclear medicine technologist, who is a person who prepares  
35 radiopharmaceuticals and administers them to human beings for  
36 diagnostic and therapeutic purposes and who performs in vivo and in



1 vitro detection and measurement of radioactivity for medical purposes  
2 at the direction of a licensed practitioner.

3 (5) (~~"Advisory committee" means the Washington state radiologic~~  
4 ~~technology advisory committee.~~

5 ~~(6))~~ "Approved school of radiologic technology" means a school of  
6 radiologic technology approved by the council on medical education of  
7 the American medical association or a school found to maintain the  
8 equivalent of such a course of study as determined by the department.  
9 Such school may be operated by a medical or educational institution,  
10 and for the purpose of providing the requisite clinical experience,  
11 shall be affiliated with one or more general hospitals.

12 ~~((7))~~ (6) "Radiologic technology" means the use of ionizing  
13 radiation upon a human being for diagnostic or therapeutic purposes.

14 ~~((8))~~ (7) "Radiologist" means a physician certified by the  
15 American board of radiology or the American osteopathic board of  
16 radiology.

17 ~~((9))~~ (8) "Registered x-ray technician" means a person who is  
18 registered with the department, and who applies ionizing radiation at  
19 the direction of a licensed practitioner.

20 **Sec. 506.** RCW 18.84.040 and 1991 c 222 s 11 are each amended to  
21 read as follows:

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

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

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

28 (c) Establish forms and procedures necessary to administer this  
29 chapter;

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

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

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

1 (g) Issue a registration to an applicant who meets the requirement  
2 for a registration.

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

5 (3) The Uniform Disciplinary Act, chapter 18.130 RCW, governs the  
6 issuance and denial of registrations and certifications, unregistered  
7 and uncertified practice, and the discipline of registrants and  
8 certificants under this chapter. The secretary is the disciplining  
9 authority under this chapter.

10 (4) The secretary may appoint ad hoc members of the profession to  
11 serve in an ad hoc advisory capacity to the secretary in carrying out  
12 this chapter. The members will serve for designated times and provide  
13 advice on matters specifically identified and requested by the  
14 secretary. The members shall be compensated in accordance with RCW  
15 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and  
16 43.03.060.

17 **Sec. 507.** RCW 18.84.070 and 1991 c 3 s 208 are each amended to  
18 read as follows:

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

23 **Sec. 508.** RCW 18.84.090 and 1991 c 3 s 210 are each amended to  
24 read as follows:

25 The secretary(~~(, in consultation with the advisory committee,)~~)  
26 shall establish by rule the standards and procedures for approval of  
27 schools and alternate training, and may contract with individuals or  
28 organizations having expertise in the profession or in education to  
29 assist in evaluating those applying for approval. The standards and  
30 procedures set shall apply equally to schools and training within the  
31 United States and those in foreign jurisdictions.

32 **Sec. 509.** RCW 18.84.110 and 1991 c 3 s 212 are each amended to  
33 read as follows:

34 The secretary(~~(, in consultation with the advisory committee,)~~)  
35 shall establish by rule the requirements and fees for renewal of  
36 certificates. Failure to renew invalidates the certificate and all

1 privileges granted by the certificate. In the event a certificate has  
2 lapsed for a period longer than three years, the certificant shall  
3 demonstrate competence to the satisfaction of the secretary by  
4 continuing education or under the other standards determined by the  
5 secretary.

6 NEW SECTION. **Sec. 510.** RCW 18.84.060 and 1991 c 3 s 207 & 1987 c  
7 412 s 7 are each repealed.

8 **RESPIRATORY CARE PRACTITIONERS**

9 **Sec. 511.** RCW 18.89.020 and 1991 c 3 s 227 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) (~~("Advisory committee" means the Washington state advisory~~  
14 ~~respiratory care committee.~~

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

16 ~~((3))~~ (2) "Secretary" means the secretary of health or the  
17 secretary's designee.

18 ~~((4))~~ (3) "Respiratory care practitioner" means an individual  
19 certified under this chapter.

20 ~~((5))~~ (4) "Physician" means an individual licensed under chapter  
21 18.57 or 18.71 RCW.

22 ~~((6))~~ (5) "Rural hospital" means a hospital located anywhere in  
23 the state except the following areas:

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

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

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

32 **Sec. 512.** RCW 18.89.050 and 1991 c 3 s 228 are each amended to  
33 read as follows:

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

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

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

5 (c) Establish forms and procedures necessary to administer this  
6 chapter;

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

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

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

15 (g) Prepare, grade, and administer, or determine the nature of, and  
16 supervise the grading and administration of, examinations for  
17 applicants for certification;

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

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

25 (j) Define and approve any experience requirement for  
26 certification; and

27 (k) 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 times 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.

33 (2) The provisions of chapter 18.130 RCW shall govern the issuance  
34 and denial of certificates, uncertified practice, and the disciplining  
35 of persons certified under this chapter. The secretary shall be the  
36 disciplining authority under this chapter.

37 **Sec. 513.** RCW 18.89.080 and 1991 c 3 s 231 are each amended to  
38 read as follows:

1 The secretary, ad hoc committee members (~~(of the advisory~~  
2 ~~committee)~~), or individuals acting on their behalf are immune from suit  
3 in any civil action based on any certification or disciplinary  
4 proceedings, or other official acts performed in the course of their  
5 duties.

6 NEW SECTION. Sec. 514. RCW 18.89.070 and 1991 c 3 s 230 & 1987 c  
7 415 s 8 are each repealed.

8 **HEALTH CARE ASSISTANTS**

9 **Sec. 515.** RCW 18.135.030 and 1991 c 3 s 273 are each amended to  
10 read as follows:

11 The secretary(~~(r)~~) or the secretary's designee, with the advice of  
12 designees of the (~~(board of)~~) medical (~~(examiners)~~) care quality  
13 assurance commission, the board of osteopathic medicine and surgery,  
14 the (~~(podiatry)~~) podiatric medical board, and the (~~(board of)~~) nursing  
15 care quality assurance commission, shall adopt rules necessary to  
16 administer, implement, and enforce this chapter and establish the  
17 minimum requirements necessary for a health care facility or health  
18 care practitioner to certify a health care assistant capable of  
19 performing the functions authorized in this chapter. The rules shall  
20 establish minimum requirements for each and every category of health  
21 care assistant. Said rules shall be adopted after fair consideration  
22 of input from representatives of each category. These requirements  
23 shall ensure that the public health and welfare are protected and shall  
24 include, but not be limited to, the following factors:

25 (1) The education and occupational qualifications for the health  
26 care assistant category;

27 (2) The work experience for the health care assistant category;

28 (3) The instruction and training provided for the health care  
29 assistant category; and

30 (4) The types of drugs or diagnostic agents which may be  
31 administered by injection by health care assistants working in a  
32 hospital or nursing home. The rules established pursuant to this  
33 subsection shall not prohibit health care assistants working in a  
34 health care facility other than a nursing home or hospital from  
35 performing the functions authorized under this chapter.

DIETITIANS AND NUTRITIONISTS

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**Sec. 516.** RCW 18.138.070 and 1991 c 3 s 284 are each amended to read as follows:

In addition to any other authority provided by law, the secretary may:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

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

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

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

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

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

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

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

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

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

(12) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated time and provide advice on matters specifically identified and requested by the secretary. The members

1 shall be compensated in accordance with RCW 43.03.220 and reimbursed  
2 for travel expenses under RCW 43.03.040 and 43.03.060. The secretary,  
3 ad hoc committee members, or individuals acting in their behalf are  
4 immune from suit in a civil action based on any certification or  
5 disciplinary proceedings or other official acts performed in the course  
6 of their duties.

7 NEW SECTION. **Sec. 517.** The secretary shall appoint a health  
8 professions advisory committee consisting of one member from each  
9 profession represented by an ad hoc advisory committee established  
10 under RCW 18.06.080, 18.84.040, 18.89.050, and 18.138.070, and one  
11 member of the health assistants profession as regulated under chapter  
12 18.135 RCW, one member of the ocularists profession as regulated under  
13 chapter 18.55 RCW, and one member of the nursing assistants profession  
14 as regulated under chapter 18.88A RCW. The members shall serve three-  
15 year terms. Of the initial members, two shall be appointed for a one-  
16 year term, two shall be appointed for a two-year term, and the  
17 remainder shall be appointed for three-year terms. Thereafter, members  
18 shall be appointed for three-year terms. The committee shall advise  
19 the secretary in matters concerning changes in the professions, health  
20 care technologies, and health policies as requested by the secretary or  
21 initiated by the committee. The committee members shall be eligible to  
22 receive travel expenses under RCW 43.03.050 and 43.03.060.

23 NEW SECTION. **Sec. 518.** RCW 18.138.080 and 1991 c 3 s 285 & 1988  
24 c 277 s 8 are each repealed.

25 **UNIFORM DISCIPLINARY ACT**

26 **Sec. 601.** RCW 18.130.010 and 1991 c 332 s 1 are each amended to  
27 read as follows:

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

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

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

9 **Sec. 602.** RCW 18.130.020 and 1989 1st ex.s. c 9 s 312 are each  
10 amended to read as follows:

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

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

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

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

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

27 (5) "Commission" means any of the commissions specified in RCW  
28 18.130.040.

29 (6) "Unlicensed practice" means:

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

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



1       (~~(6)~~) (7) "Disciplinary action" means sanctions identified in RCW  
2 18.130.160.

3       (~~(7)~~) (8) "Practice review" means an investigative audit of  
4 records related to the complaint, without prior identification of  
5 specific patient or consumer names, to determine whether unprofessional  
6 conduct may have been committed.

7       (~~(8)~~) (9) "Health agency" means city and county health  
8 departments and the department of health.

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

13       **Sec. 603.** RCW 18.130.040 and 1993 c 367 s 4 are each amended to  
14 read as follows:

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

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

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

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

24       (iii) Midwives licensed under chapter 18.50 RCW;

25       (iv) Ocularists licensed under chapter 18.55 RCW;

26       (v) Massage operators and businesses licensed under chapter 18.108  
27 RCW;

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

29       (vii) Acupuncturists certified under chapter 18.06 RCW;

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

32       (ix) Respiratory care practitioners certified under chapter 18.89  
33 RCW;

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

35       (xi) Persons registered as nursing pool operators under chapter  
36 18.52C RCW;

37       (xii) Nursing assistants registered or certified under chapter  
38 (~~18.88A~~) 18.-- (sections 401 through 431 of this act) RCW;

1 (xiii) Health care assistants certified under chapter 18.135 RCW;  
2 (xiv) Dietitians and nutritionists certified under chapter 18.138  
3 RCW;  
4 (xv) Sex offender treatment providers certified under chapter  
5 18.155 RCW; and  
6 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW  
7 18.71.205.  
8 (b) The boards and commissions having authority under this chapter  
9 are as follows:  
10 (i) The podiatric medical board as established in chapter 18.22  
11 RCW;  
12 (ii) The chiropractic (~~((disciplinary board))~~) quality assurance  
13 commission as established in chapter (~~((18.26 RCW governing licenses~~  
14 ~~issued under chapter))~~) 18.25 RCW;  
15 (iii) The dental (~~((disciplinary board))~~) quality assurance  
16 commission as established in chapter 18.32 RCW;  
17 (iv) The (~~((council))~~) board on fitting and dispensing of hearing  
18 aids as established in chapter 18.35 RCW;  
19 (v) The board of funeral directors and embalmers as established in  
20 chapter 18.39 RCW;  
21 (vi) The board of examiners for nursing home administrators as  
22 established in chapter 18.52 RCW;  
23 (vii) The optometry board as established in chapter 18.54 RCW  
24 governing licenses issued under chapter 18.53 RCW;  
25 (viii) The board of osteopathic medicine and surgery as established  
26 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
27 18.57A RCW;  
28 (ix) The board of pharmacy as established in chapter 18.64 RCW  
29 governing licenses issued under chapters 18.64 and 18.64A RCW;  
30 (x) The medical (~~((disciplinary board))~~) quality assurance commission  
31 as established in chapter ((18.72)) 18.71 RCW governing licenses and  
32 registrations issued under chapters 18.71 and 18.71A RCW;  
33 (xi) The board of physical therapy as established in chapter 18.74  
34 RCW;  
35 (xii) The board of occupational therapy practice as established in  
36 chapter 18.59 RCW;  
37 (xiii) The (~~((board of practical))~~) nursing care quality assurance  
38 commission as established in chapter (~~((18.78))~~) 18.-- RCW (sections 401  
39 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 **Sec. 604.** RCW 18.130.300 and 1993 c 367 s 10 are each amended to  
22 read as follows:

23 The secretary, members of the boards or commissions, or individuals  
24 acting on their behalf are immune from suit in any action, civil or  
25 criminal, based on any disciplinary proceedings or other official acts  
26 performed in the course of their duties.

27 **CONFORMING AMENDMENTS**

28 **Sec. 701.** RCW 4.24.260 and 1975 1st ex.s. c 114 s 3 are each  
29 amended to read as follows:

30 Physicians licensed under chapter 18.71 RCW(~~{,}~~),  
31 licensed under chapter 18.32 RCW,  
32 and pharmacists licensed under  
33 chapter 18.64 RCW who, in good faith, file charges or present evidence  
34 against another member of their profession based on the claimed  
35 incompetency or gross misconduct of such person before the medical  
36 (~~disciplinary board~~) quality assurance commission established under  
chapter (~~18.72~~) 18.71 RCW, in a proceeding under chapter 18.32 RCW,

1 or to the board of pharmacy under RCW 18.64.160 shall be immune from  
2 civil action for damages arising out of such activities.

3 **Sec. 702.** RCW 4.24.290 and 1985 c 326 s 26 are each amended to  
4 read as follows:

5 In any civil action for damages based on professional negligence  
6 against a hospital which is licensed by the state of Washington or  
7 against the personnel of any such hospital, or against a member of the  
8 healing arts including, but not limited to, an acupuncturist certified  
9 under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW,  
10 an osteopathic physician licensed under chapter 18.57 RCW, a  
11 chiropractor licensed under chapter 18.25 RCW, a dentist licensed under  
12 chapter 18.32 RCW, a (~~podiatrist~~) podiatric physician and surgeon  
13 licensed under chapter 18.22 RCW, or a nurse licensed under (~~chapters~~  
14 ~~18.78 or 18.88~~) chapter 18.-- RCW (sections 401 through 431 of this  
15 act), the plaintiff in order to prevail shall be required to prove by  
16 a preponderance of the evidence that the defendant or defendants failed  
17 to exercise that degree of skill, care, and learning possessed at that  
18 time by other persons in the same profession, and that as a proximate  
19 result of such failure the plaintiff suffered damages, but in no event  
20 shall the provisions of this section apply to an action based on the  
21 failure to obtain the informed consent of a patient.

22 **Sec. 703.** RCW 5.62.010 and 1987 c 198 s 1 are each amended to read  
23 as follows:

24 Unless the context clearly requires otherwise, the definitions in  
25 this section apply throughout this chapter.

26 (1) "Registered nurse" means a registered nurse or advanced nurse  
27 practitioner licensed under chapter (~~18.88~~) 18.-- RCW (sections 401  
28 through 431 of this act).

29 (2) "Protocol" means a regimen to be carried out by a registered  
30 nurse and prescribed by a licensed physician under chapter 18.71 RCW,  
31 or a licensed osteopathic physician under chapter 18.57 RCW, which is  
32 consistent with chapter (~~18.88~~) 18.-- RCW (sections 401 through 431  
33 of this act) and the rules adopted under that chapter (~~18.88~~ RCW).

34 (3) "Primary care" means screening, assessment, diagnosis, and  
35 treatment for the purpose of promotion of health and detection of  
36 disease or injury, as authorized by chapter (~~18.88~~) 18.-- RCW

1 (sections 401 through 431 of this act) and the rules adopted under that  
2 chapter ~~((18.88 RCW))~~.

3 **Sec. 704.** RCW 18.50.032 and 1981 c 53 s 10 are each amended to  
4 read as follows:

5 Registered nurses and nurse midwives certified by the ~~((board of))~~  
6 nursing care quality assurance commission under chapter ~~((18.88))~~ 18.--  
7 RCW (sections 401 through 431 of this act) shall be exempt from the  
8 requirements and provisions of this chapter.

9 **Sec. 705.** RCW 18.50.040 and 1991 c 3 s 106 are each amended to  
10 read as follows:

11 (1) Any person seeking to be examined shall present to the  
12 secretary, at least forty-five days before the commencement of the  
13 examination, a written application on a form or forms provided by the  
14 secretary setting forth under affidavit such information as the  
15 secretary may require and proof the candidate has received a high  
16 school degree or its equivalent; that the candidate is twenty-one years  
17 of age or older; that the candidate has received a certificate or  
18 diploma from a midwifery program accredited by the secretary and  
19 licensed under chapter 28C.10 RCW, when applicable, or a certificate or  
20 diploma in a foreign institution on midwifery of equal requirements  
21 conferring the full right to practice midwifery in the country in which  
22 it was issued. The diploma must bear the seal of the institution from  
23 which the applicant was graduated. Foreign candidates must present  
24 with the application a translation of the foreign certificate or  
25 diploma made by and under the seal of the consulate of the country in  
26 which the certificate or diploma was issued.

27 (2) The candidate shall meet the following conditions:

28 (a) Obtaining a minimum period of midwifery training for at least  
29 three years including the study of the basic nursing skills that the  
30 department shall prescribe by rule. However, if the applicant is a  
31 registered nurse or licensed practical nurse under chapter ~~((18.88 RCW,~~  
32 ~~a licensed practical nurse under chapter 18.78 RCW))~~ 18.-- RCW  
33 (sections 401 through 431 of this act), or has had previous nursing  
34 education or practical midwifery experience, the required period of  
35 training may be reduced depending upon the extent of the candidate's  
36 qualifications as determined under rules adopted by the department. In

1 no case shall the training be reduced to a period of less than two  
2 years.

3 (b) Meeting minimum educational requirements which shall include  
4 studying obstetrics; neonatal pediatrics; basic sciences; female  
5 reproductive anatomy and physiology; behavioral sciences; childbirth  
6 education; community care; obstetrical pharmacology; epidemiology;  
7 gynecology; family planning; genetics; embryology; neonatology; the  
8 medical and legal aspects of midwifery; nutrition during pregnancy and  
9 lactation; breast feeding; nursing skills, including but not limited to  
10 injections, administering intravenous fluids, catheterization, and  
11 aseptic technique; and such other requirements prescribed by rule.

12 (c) For a student midwife during training, undertaking the care of  
13 not less than fifty women in each of the prenatal, intrapartum, and  
14 early postpartum periods, but the same women need not be seen through  
15 all three periods. A student midwife may be issued a permit upon the  
16 satisfactory completion of the requirements in (a), (b), and (c) of  
17 this subsection and the satisfactory completion of the licensure  
18 examination required by RCW 18.50.060. The permit permits the student  
19 midwife to practice under the supervision of a midwife licensed under  
20 this chapter, a physician or a certified nurse-midwife licensed under  
21 the authority of chapter ((18.88)) 18.-- RCW (sections 401 through 431  
22 of this act). The permit shall expire within one year of issuance and  
23 may be extended as provided by rule.

24 (d) Observing an additional fifty women in the intrapartum period  
25 before the candidate qualifies for a license.

26 (3) Notwithstanding subsections (1) and (2) of this section, the  
27 department shall adopt rules to provide credit toward the educational  
28 requirements for licensure before July 1, 1988, of nonlicensed  
29 midwives, including rules to provide:

- 30 (a) Credit toward licensure for documented deliveries;  
31 (b) The substitution of relevant experience for classroom time; and  
32 (c) That experienced lay midwives may sit for the licensing  
33 examination without completing the required coursework.

34 The training required under this section shall include training in  
35 either hospitals or alternative birth settings or both with particular  
36 emphasis on learning the ability to differentiate between low-risk and  
37 high-risk pregnancies.

1       **Sec. 706.** RCW 18.50.140 and 1991 c 3 s 114 are each amended to  
2 read as follows:

3       The midwifery advisory committee is created.

4       The committee shall be composed of one physician who is a  
5 practicing obstetrician; one practicing physician; one certified nurse  
6 midwife licensed under chapter ~~((18.88))~~ 18.-- RCW (sections 401  
7 through 431 of this act); three midwives licensed under this chapter;  
8 and one public member, who shall have no financial interest in the  
9 rendering of health services. The committee may seek other consultants  
10 as appropriate, including persons trained in childbirth education and  
11 perinatology or neonatology.

12       The members are appointed by the secretary and serve at the  
13 pleasure of the secretary but may not serve more than five years  
14 consecutively. The terms of office shall be staggered. Members of the  
15 committee shall be reimbursed for travel expenses as provided in RCW  
16 43.03.050 and 43.03.060 ~~((as now or hereafter amended))~~.

17       **Sec. 707.** RCW 18.50.115 and 1991 c 3 s 112 are each amended to  
18 read as follows:

19       A midwife licensed under this chapter may obtain and administer  
20 prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho  
21 immune globulin (human), and local anesthetic and may administer such  
22 other drugs or medications as prescribed by a physician. A pharmacist  
23 who dispenses such drugs to a licensed midwife shall not be liable for  
24 any adverse reactions caused by any method of use by the midwife.

25       The secretary, after consultation with representatives of the  
26 midwife advisory committee, the board of pharmacy, and the ~~((board of))~~  
27 medical ~~((examiners))~~ quality assurance commission, may ~~((issue~~  
28 ~~regulations which))~~ adopt rules that authorize licensed midwives to  
29 purchase and use legend drugs and devices in addition to the drugs  
30 authorized in this chapter.

31       **Sec. 708.** RCW 18.88A.020 and 1991 c 16 s 2 are each amended to  
32 read as follows:

33       Unless the context clearly requires otherwise, the definitions in  
34 this section apply throughout this chapter.

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

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

1 (3) "~~((Board))~~ Commission" means the Washington ~~((state board of))~~  
2 nursing care quality assurance commission.

3 (4) "Nursing assistant" means an individual, regardless of title,  
4 who, under the direction and supervision of a registered nurse or  
5 licensed practical nurse, assists in the delivery of nursing and  
6 nursing-related activities to patients in a health care facility. The  
7 two levels of nursing assistants are (a) "nursing assistant-certified,"  
8 an individual certified under this chapter, (b) "nursing assistant-  
9 registered," an individual registered under this chapter.

10 (5) ~~((("Committee" means the Washington state nursing assistant  
11 advisory committee.~~

12 ~~(+6))~~ "Approved training program" means a nursing assistant-  
13 certified training program approved by the ~~((board))~~ commission. For  
14 community college, vocational-technical institutes, skill centers, and  
15 secondary school as defined in chapter 28B.50 RCW, nursing assistant-  
16 certified training programs shall be approved by the ~~((board))~~  
17 commission in cooperation with the board for community and technical  
18 colleges ~~((education))~~ or the superintendent of public instruction.

19 ~~((+7))~~ (6) "Health care facility" means a nursing home, hospital,  
20 hospice care facility, home health care agency, hospice agency, or  
21 other entity for delivery of health care services as defined by the  
22 ~~((board))~~ commission.

23 ~~((+8))~~ (7) "Competency evaluation" means the measurement of an  
24 individual's knowledge and skills as related to safe, competent  
25 performance as a nursing assistant.

26 **Sec. 709.** RCW 18.88A.030 and 1991 c 16 s 3 are each amended to  
27 read as follows:

28 (1) A nursing assistant may assist in the care of individuals as  
29 delegated by and under the direction and supervision of a licensed  
30 (registered) nurse or licensed practical nurse.

31 (2) A health care facility shall not assign a nursing assistant-  
32 registered to provide care until the nursing assistant-registered has  
33 demonstrated skills necessary to perform competently all assigned  
34 duties and responsibilities.

35 (3) Nothing in this chapter shall be construed to confer on a  
36 nursing assistant the authority to administer medication or to practice  
37 as a licensed (registered) nurse ~~((as defined in chapter 18.88 RCW))~~ or



1 licensed practical nurse as defined in chapter (~~18.78~~) 18.-- RCW  
2 (sections 401 through 431 of this act).

3 (4) Certification is voluntary for nursing assistants working in  
4 health care facilities other than nursing homes unless otherwise  
5 required by state or federal law or regulation.

6 (5) The (~~board of nursing shall have the authority to~~) commission  
7 may adopt rules to implement the provisions of this chapter.

8 **Sec. 710.** RCW 18.88A.060 and 1991 c 16 s 8 are each amended to  
9 read as follows:

10 In addition to any other authority provided by law, the (~~state~~  
11 ~~board of nursing has the authority to~~) commission may:

12 (1) Determine minimum education requirements and approve training  
13 programs;

14 (2) Prepare, grade, and administer, or determine the nature of, and  
15 supervise the grading and administration of, examinations of training  
16 and competency for applicants for certification;

17 (3) Determine whether alternative methods of training are  
18 equivalent to approved training programs, and establish forms,  
19 procedures, and criteria for evaluation of an applicant's alternative  
20 training to determine the applicant's eligibility to take any  
21 qualifying examination for certification;

22 (4) Define and approve any experience requirement for  
23 certification;

24 (5) Adopt rules implementing a continuing competency evaluation  
25 program;

26 (6) Adopt rules to enable it to carry into effect the provisions of  
27 this chapter.

28 **Sec. 711.** RCW 18.88A.080 and 1991 c 16 s 10 are each amended to  
29 read as follows:

30 (1) The secretary shall issue a registration to any applicant who  
31 pays any applicable fees and submits, on forms provided by the  
32 secretary, the applicant's name, address, and other information as  
33 determined by the secretary, provided there are no grounds for denial  
34 of registration or issuance of a conditional registration under this  
35 chapter or chapter 18.130 RCW.

36 (2) Applicants must file an application with the (~~board~~)  
37 commission for registration within three days of employment.

1       **Sec. 712.** RCW 18.88A.085 and 1991 c 16 s 11 are each amended to  
2 read as follows:

3       (1) After January 1, 1990, the secretary shall issue a certificate  
4 to any applicant who demonstrates to the secretary's satisfaction that  
5 the following requirements have been met:

6       (a) Completion of an approved training program or successful  
7 completion of alternate training meeting established criteria approved  
8 by the ((~~board~~)) commission; and

9       (b) Successful completion of a competency evaluation.

10       (2) In addition, applicants shall be subject to the grounds for  
11 denial of certification under chapter 18.130 RCW.

12       **Sec. 713.** RCW 18.88A.090 and 1991 c 3 s 225 are each amended to  
13 read as follows:

14       (1) The date and location of examinations shall be established by  
15 the secretary. Applicants who have been found by the secretary to meet  
16 the requirements for certification shall be scheduled for the next  
17 examination following the filing of the application. The secretary  
18 shall establish by rule the examination application deadline.

19       (2) The ((~~board~~)) commission shall examine each applicant, by a  
20 written or oral and a manual component of competency evaluation.  
21 Examinations shall be limited to the purpose of determining whether the  
22 applicant possesses the minimum skill and knowledge necessary to  
23 practice competently.

24       (3) The examination papers, all grading of the papers, and the  
25 grading of skills demonstration shall be preserved for a period of not  
26 less than one year after the ((~~board~~)) commission has made and  
27 published the decisions. All examinations shall be conducted under  
28 fair and wholly impartial methods.

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

36       (5) The ((~~board~~)) commission may approve an examination prepared or  
37 administered by a private testing agency or association of licensing

1 agencies for use by an applicant in meeting the credentialing  
2 requirements.

3 **Sec. 714.** RCW 18.88A.100 and 1991 c 16 s 12 and 1991 c 3 s 226 are  
4 each reenacted and amended to read as follows:

5 The secretary shall waive the competency evaluation and certify a  
6 person to practice within the state of Washington if the ((board))  
7 commission determines that the person meets commonly accepted standards  
8 of education and experience for the nursing assistants. This section  
9 applies only to those individuals who file an application for waiver by  
10 December 31, 1991.

11 **Sec. 715.** RCW 18.88A.130 and 1991 c 16 s 15 are each amended to  
12 read as follows:

13 The secretary shall establish by rule the procedural requirements  
14 and fees for renewal of a registration or certificate. Failure to  
15 renew shall invalidate the credential and all privileges granted by the  
16 credential. If a certificate has lapsed for a period longer than three  
17 years, the person shall demonstrate competence to the satisfaction of  
18 the ((board)) commission by taking continuing education courses, or  
19 meeting other standards determined by the ((board)) commission.

20 **Sec. 716.** RCW 18.89.040 and 1987 c 415 s 5 are each amended to  
21 read as follows:

22 A respiratory care practitioner certified under this chapter is  
23 employed in the treatment, management, diagnostic testing,  
24 rehabilitation, and care of patients with deficiencies and  
25 abnormalities which affect the cardiopulmonary system and associated  
26 aspects of other systems, and is under the direct order and under the  
27 qualified medical direction of a physician. The practice of  
28 respiratory care includes, but is not limited to:

- 29 (1) The use and administration of medical gases, exclusive of  
30 general anesthesia;  
31 (2) The use of air and oxygen administering apparatus;  
32 (3) The use of humidification and aerosols;  
33 (4) The administration of prescribed pharmacologic agents related  
34 to respiratory care;  
35 (5) The use of mechanical or physiological ventilatory support;  
36 (6) Postural drainage, chest percussion, and vibration;

- 1 (7) Bronchopulmonary hygiene;
- 2 (8) Cardiopulmonary resuscitation as it pertains to establishing  
3 airways and external cardiac compression;
- 4 (9) The maintenance of natural and artificial airways and  
5 insertion, without cutting tissues, of artificial airways, as ordered  
6 by the attending physician;
- 7 (10) Diagnostic and monitoring techniques such as the measurement  
8 of cardiorespiratory volumes, pressures, and flows; and
- 9 (11) The drawing and analyzing of arterial, capillary, and mixed  
10 venous blood specimens as ordered by the attending physician or an  
11 advanced registered nurse practitioner as authorized by the ((board  
12 of)) nursing care quality assurance commission under chapter ((18.88))  
13 18.-- RCW (sections 401 through 431 of this act).

14 **Sec. 717.** RCW 18.100.140 and 1987 c 447 s 16 are each amended to  
15 read as follows:

16 Nothing in this chapter shall authorize a director, officer,  
17 shareholder, agent or employee of a corporation organized under this  
18 chapter, or a corporation itself organized under this chapter, to do or  
19 perform any act which would be illegal, unethical or unauthorized  
20 conduct under the provisions of the following acts: (1) ((~~Medical  
21 disciplinary act~~)) Physicians and surgeons, chapter ((18.72)) 18.71  
22 RCW; (2) anti-rebating act, chapter 19.68 RCW; (3) state bar act,  
23 chapter 2.48 RCW; (4) professional accounting act, chapter 18.04 RCW;  
24 (5) professional architects act, chapter 18.08 RCW; (6) professional  
25 auctioneers act, chapter 18.11 RCW; (7) cosmetologists, barbers, and  
26 manicurists, chapter 18.16 RCW; (8) boarding homes act, chapter 18.20  
27 RCW; (9) ((~~podiatry~~)) podiatric medicine and surgery, chapter 18.22  
28 RCW; (10) chiropractic act, chapter 18.25 RCW; (11) registration of  
29 contractors, chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28  
30 RCW; (13) dental hygienist act, chapter 18.29 RCW; (14) dentistry,  
31 chapter 18.32 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16)  
32 naturopathic ((~~act~~)) physicians, chapter 18.36A RCW; (17) embalmers and  
33 funeral directors, chapter 18.39 RCW; (18) engineers and land  
34 surveyors, chapter 18.43 RCW; (19) escrow agents registration act,  
35 chapter 18.44 RCW; (20) maternity homes, chapter 18.46 RCW; (21)  
36 midwifery, chapter 18.50 RCW; (22) nursing homes, chapter 18.51 RCW;  
37 (23) optometry, chapter 18.53 RCW; (24) ((~~osteopathy~~)) osteopathic  
38 physicians and surgeons, chapter 18.57 RCW; (25) pharmacists, chapter

1 18.64 RCW; (26) physical therapy, chapter 18.74 RCW; (27) registered  
2 nurses, advanced registered nurse practitioners, and practical nurses,  
3 chapter ~~((18.78))~~ 18.-- RCW (sections 401 through 431 of this act);  
4 (28) psychologists, chapter 18.83 RCW; (29) real estate brokers and  
5 salesmen, chapter 18.85 RCW; (30) ~~((registered professional nurses,~~  
6 ~~chapter 18.88 RCW; (31))~~) veterinarians, chapter 18.92 RCW.

7 **Sec. 718.** RCW 18.120.020 and 1989 c 300 s 14 are each amended to  
8 read as follows:

9 The definitions contained in this section shall apply throughout  
10 this chapter unless the context clearly requires otherwise.

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

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

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

27 (4) "Health professions" means and includes the following health  
28 and health-related licensed or regulated professions and occupations:  
29 ~~((Podiatry))~~ Podiatric medicine and surgery under chapter 18.22 RCW;  
30 chiropractic under chapter ~~((s))~~ 18.25 ~~((and 18.26 RCW))~~; dental hygiene  
31 under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing  
32 opticians under chapter 18.34 RCW; hearing aids under chapter 18.35  
33 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral  
34 directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW;  
35 nursing home administration under chapter 18.52 RCW; optometry under  
36 chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW;  
37 osteopathy and osteopathic medicine and surgery under chapters 18.57  
38 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine

1 under chapters 18.71(~~(7)~~) and 18.71A(~~(7, and 18.72)~~) RCW; emergency  
2 medicine under chapter 18.73 RCW; physical therapy under chapter 18.74  
3 RCW; practical nurses under chapter (~~(18.78)~~) 18.-- RCW (sections 401  
4 through 431 of this act); psychologists under chapter 18.83 RCW;  
5 registered nurses under chapter (~~(18.88)~~) 18.-- RCW (sections 401  
6 through 431 of this act); occupational therapists licensed (~~(pursuant~~  
7 ~~to)~~) under chapter 18.59 RCW; respiratory care practitioners certified  
8 under chapter 18.89 RCW; veterinarians and animal technicians under  
9 chapter 18.92 RCW; health care assistants under chapter 18.135 RCW;  
10 massage practitioners under chapter 18.108 RCW; acupuncturists  
11 certified under chapter 18.06 RCW; persons registered or certified  
12 under chapter 18.19 RCW; dietitians and nutritionists certified by  
13 chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and  
14 nursing assistants registered or certified under chapter 18.88A RCW.

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

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

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

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

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

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

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

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

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

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

17 **Sec. 719.** RCW 18.135.020 and 1991 c 3 s 272 are each amended to  
18 read as follows:

19 As used in this chapter:

20 (1) "Secretary" means the secretary of health.

21 (2) "Health care assistant" means an unlicensed person who assists  
22 a licensed health care practitioner in providing health care to  
23 patients pursuant to this chapter.

24 (3) "Health care practitioner" means:

25 (a) A physician licensed under chapter 18.71 RCW;

26 (b) An osteopathic physician or surgeon licensed under chapter  
27 18.57 RCW; or

28 (c) Acting within the scope of their respective licensure, a  
29 (~~podiatrist~~) podiatric physician and surgeon licensed under chapter  
30 18.22 RCW or a registered nurse or advanced registered nurse  
31 practitioner licensed under chapter (~~18.88~~) 18.-- RCW (sections 401  
32 through 431 of this act).

33 (4) "Supervision" means supervision of procedures permitted  
34 pursuant to this chapter by a health care practitioner who is  
35 physically present and is immediately available in the facility during  
36 the administration of injections, as defined in this chapter, but need  
37 not be present during procedures to withdraw blood.

1 (5) "Health care facility" means any hospital, hospice care center,  
2 licensed or certified health care facility, health maintenance  
3 organization regulated under chapter 48.46 RCW, federally qualified  
4 health maintenance organization, renal dialysis center or facility  
5 federally approved under 42 C.F.R. 405.2100, blood bank federally  
6 licensed under 21 C.F.R. 607, or clinical laboratory certified under 20  
7 C.F.R. 405.1301-16.

8 (6) "Delegation" means direct authorization granted by a licensed  
9 health care practitioner to a health care assistant to perform the  
10 functions authorized in this chapter which fall within the scope of  
11 practice of the delegator and which are not within the scope of  
12 practice of the delegatee.

13 **Sec. 720.** RCW 28A.210.260 and 1982 c 195 s 1 are each amended to  
14 read as follows:

15 Public school districts and private schools which conduct any of  
16 grades kindergarten through the twelfth grade may provide for the  
17 administration of oral medication of any nature to students who are in  
18 the custody of the school district or school at the time of  
19 administration, but are not required to do so by this section, subject  
20 to the following conditions:

21 (1) The board of directors of the public school district or the  
22 governing board of the private school or, if none, the chief  
23 administrator of the private school shall adopt policies which address  
24 the designation of employees who may administer oral medications to  
25 students, the acquisition of parent requests and instructions, and the  
26 acquisition of dentist and physician requests and instructions  
27 regarding students who require medication for more than fifteen  
28 consecutive school days, the identification of the medication to be  
29 administered, the means of safekeeping medications with special  
30 attention given to the safeguarding of legend drugs as defined in  
31 chapter 69.41 RCW, and the means of maintaining a record of the  
32 administration of such medication;

33 (2) The board of directors shall seek advice from one or more  
34 licensed physicians or nurses in the course of developing the foregoing  
35 policies;

36 (3) The public school district or private school is in receipt of  
37 a written, current and unexpired request from a parent, or a legal



1 guardian, or other person having legal control over the student to  
2 administer the medication to the student;

3 (4) The public school district or the private school is in receipt  
4 of (a) a written, current and unexpired request from a licensed  
5 physician or dentist for administration of the medication, as there  
6 exists a valid health reason which makes administration of such  
7 medication advisable during the hours when school is in session or the  
8 hours in which the student is under the supervision of school  
9 officials, and (b) written, current and unexpired instructions from  
10 such physician or dentist regarding the administration of prescribed  
11 medication to students who require medication for more than fifteen  
12 consecutive work days;

13 (5) The medication is administered by an employee designated by or  
14 pursuant to the policies adopted pursuant to subsection (1) of this  
15 section and in substantial compliance with the prescription of a  
16 physician or dentist or the written instructions provided pursuant to  
17 subsection (4) of this section;

18 (6) The medication is first examined by the employee administering  
19 the same to determine in his or her judgment that it appears to be in  
20 the original container and to be properly labeled; and

21 (7) The board of directors shall designate a professional person  
22 licensed pursuant to chapter 18.71 RCW or (~~18.88~~) chapter 18.-- RCW  
23 (sections 401 through 431 of this act) as it applies to registered  
24 nurses and advanced registered nurse practitioners, to train and  
25 supervise the designated school district personnel in proper medication  
26 procedures.

27 **Sec. 721.** RCW 28A.210.280 and 1988 c 48 s 2 are each amended to  
28 read as follows:

29 (1) Public school districts and private schools that offer classes  
30 for any of grades kindergarten through twelve may provide for clean,  
31 intermittent bladder catheterization of students, or assisted self-  
32 catheterization of students pursuant to (~~RCW 18.88.295:— PROVIDED,~~  
33 ~~That~~) section 429 of this act, if the catheterization is provided for  
34 in substantial compliance with:

35 (a) Rules adopted by the state (~~board of~~) nursing care quality  
36 assurance commission and the instructions of a registered nurse or  
37 advanced registered nurse practitioner issued under such rules; and

1 (b) Written policies of the school district or private school which  
2 shall be adopted in order to implement this section and shall be  
3 developed in accordance with such requirements of chapters 41.56 and  
4 41.59 RCW as may be applicable.

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

7 **Sec. 722.** RCW 28A.210.290 and 1990 c 33 s 209 are each amended to  
8 read as follows:

9 (1) In the event a school employee provides for the catheterization  
10 of a student pursuant to RCW (~~(18.88.295)~~) 18.--.--- (section 429 of  
11 this act) and 28A.210.280 in substantial compliance with (a) rules  
12 adopted by the state (~~(board of)~~) nursing care quality assurance  
13 commission and the instructions of a registered nurse or advanced  
14 registered nurse practitioner issued under such rules, and (b) written  
15 policies of the school district or private school, then the employee,  
16 the employee's school district or school of employment, and the members  
17 of the governing board and chief administrator thereof shall not be  
18 liable in any criminal action or for civil damages in their individual,  
19 marital, governmental, corporate, or other capacity as a result of  
20 providing for the catheterization.

21 (2) Providing for the catheterization of any student pursuant to  
22 RCW (~~(18.88.295)~~) 18.--.--- (section 429 of this act) and 28A.210.280  
23 may be discontinued by a public school district or private school and  
24 the school district or school, its employees, its chief administrator,  
25 and members of its governing board shall not be liable in any criminal  
26 action or for civil damages in their individual, marital, governmental,  
27 corporate, or other capacity as a result of the discontinuance:  
28 PROVIDED, That the chief administrator of the public school district or  
29 private school, or his or her designee, has first provided actual  
30 notice orally or in writing in advance of the date of discontinuance to  
31 a parent or legal guardian of the student or other person having legal  
32 control over the student: PROVIDED FURTHER, That the public school  
33 district otherwise provides for the catheterization of the student to  
34 the extent required by federal or state law.

35 **Sec. 723.** RCW 28C.10.030 and 1990 c 188 s 6 are each amended to  
36 read as follows:

37 This chapter does not apply to:

1 (1) Bona fide trade, business, professional, or fraternal  
2 organizations sponsoring educational programs primarily for that  
3 organization's membership or offered by that organization on a no-fee  
4 basis;

5 (2) Entities offering education that is exclusively avocational or  
6 recreational;

7 (3) Education not requiring payment of money or other consideration  
8 if this education is not advertised or promoted as leading toward  
9 educational credentials;

10 (4) Entities that are established, operated, and governed by this  
11 state or its political subdivisions under Title 28A, 28B, or 28C RCW;

12 (5) Degree-granting programs in compliance with the rules of the  
13 higher education coordinating board;

14 (6) Any other entity to the extent that it has been exempted from  
15 some or all of the provisions of this chapter under RCW 28C.10.100;

16 (7) Entities not otherwise exempt that are of a religious  
17 character, but only as to those educational programs exclusively  
18 devoted to religious or theological objectives and represented  
19 accurately in institutional catalogs or other official publications;

20 (8) Entities offering only courses certified by the federal  
21 aviation administration;

22 (9) Barber and cosmetology schools licensed under chapter 18.16  
23 RCW;

24 (10) Entities which only offer courses approved to meet the  
25 continuing education requirements for licensure under chapter((s))  
26 18.04, ((~~18.78, 18.88~~)) 18.-- (sections 401 through 431 of this act),  
27 or 48.17 RCW; and

28 (11) Entities not otherwise exempt offering only workshops or  
29 seminars lasting no longer than three calendar days.

30 **Sec. 724.** RCW 41.05.075 and 1993 c 386 s 10 are each amended to  
31 read as follows:

32 (1) The administrator shall provide benefit plans designed by the  
33 board through a contract or contracts with insuring entities, through  
34 self-funding, self-insurance, or other methods of providing insurance  
35 coverage authorized by RCW 41.05.140.

36 (2) The administrator shall establish a contract bidding process  
37 that encourages competition among insuring entities, is timely to the

1 state budgetary process, and sets conditions for awarding contracts to  
2 any insuring entity.

3 (3) The administrator shall establish a requirement for review of  
4 utilization and financial data from participating insuring entities on  
5 a quarterly basis.

6 (4) The administrator shall centralize the enrollment files for all  
7 employee and retired or disabled school employee health plans offered  
8 under chapter 41.05 RCW and develop enrollment demographics on a plan-  
9 specific basis.

10 (5) The administrator shall establish methods for collecting,  
11 analyzing, and disseminating to covered individuals information on the  
12 cost and quality of services rendered by individual health care  
13 providers.

14 (6) All claims data shall be the property of the state. The  
15 administrator may require of any insuring entity that submits a bid to  
16 contract for coverage all information deemed necessary to fulfill the  
17 administrator's duties as set forth in this chapter.

18 (7) All contracts with insuring entities for the provision of  
19 health care benefits shall provide that the beneficiaries of such  
20 benefit plans may use on an equal participation basis the services of  
21 practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53,  
22 18.57, 18.71, 18.74, 18.83, and (~~(18.88 RCW)~~) 18.-- RCW (sections 401  
23 through 431 of this act), as it applies to registered nurses and  
24 advanced registered nurse practitioners. However, nothing in this  
25 subsection may preclude the administrator from establishing appropriate  
26 utilization controls approved pursuant to RCW 41.05.065(2) (a)(~~(i)~~),  
27 (b), and (d).

28 (8) Beginning in January 1990, and each January thereafter, the  
29 administrator shall publish and distribute to each school district a  
30 description of health care benefit plans available through the  
31 authority and the estimated cost if school district employees were  
32 enrolled.

33 **Sec. 725.** RCW 41.05.180 and 1989 c 338 s 5 are each amended to  
34 read as follows:

35 Each health plan offered to public employees and their covered  
36 dependents under this chapter that is not subject to the provisions of  
37 Title 48 RCW and is established or renewed after January 1, 1990, and  
38 that provides benefits for hospital or medical care shall provide

1 benefits for screening or diagnostic mammography services, provided  
2 that such services are delivered upon the recommendation of the  
3 patient's physician or advanced registered nurse practitioner as  
4 authorized by the ((board of)) nursing care quality assurance  
5 commission pursuant to chapter ((18.88)) 18.-- RCW (sections 401  
6 through 431 of this act) or physician((s)) assistant pursuant to  
7 chapter 18.71A RCW.

8 This section shall not be construed to prevent the application of  
9 standard health plan provisions applicable to other benefits such as  
10 deductible or copayment provisions. This section does not limit the  
11 authority of the state health care authority to negotiate rates and  
12 contract with specific providers for the delivery of mammography  
13 services. This section shall not apply to medicare supplement policies  
14 or supplemental contracts covering a specified disease or other limited  
15 benefits.

16 **Sec. 726.** RCW 42.17.316 and 1987 c 416 s 7 are each amended to  
17 read as follows:

18 The disclosure requirements of this chapter shall not apply to  
19 records of the committee obtained in an action under RCW 18.72.301  
20 through 18.72.321 (as recodified by this act).

21 **Sec. 727.** RCW 43.70.220 and 1989 1st ex.s. c 9 s 301 are each  
22 amended to read as follows:

23 The powers and duties of the department of licensing and the  
24 director of licensing under the following statutes are hereby  
25 transferred to the department of health and the secretary of health:  
26 Chapters 18.06, 18.19, 18.22, 18.25, ((18.26)) 18.29, 18.32, 18.34,  
27 18.35, 18.36A, 18.50, 18.52, ((18.52A, 18.52B)) 18.52C, 18.53, 18.54,  
28 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, ((18.72)) 18.74,  
29 ((18.78)) 18.83, 18.84, ((18.88)) 18.-- (sections 401 through 431 of  
30 this act), 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More  
31 specifically, the health professions regulatory programs and services  
32 presently administered by the department of licensing are hereby  
33 transferred to the department of health.

34 **Sec. 728.** RCW 48.20.393 and 1989 c 338 s 1 are each amended to  
35 read as follows:

1 Each disability insurance policy issued or renewed after January 1,  
2 1990, that provides coverage for hospital or medical expenses shall  
3 provide coverage for screening or diagnostic mammography services,  
4 provided that such services are delivered upon the recommendation of  
5 the patient's physician or advanced registered nurse practitioner as  
6 authorized by the ((board of)) nursing care quality assurance  
7 commission pursuant to chapter ((18.88)) 18.-- RCW (sections 401  
8 through 431 of this act) or physician((s)) assistant pursuant to  
9 chapter 18.71A RCW.

10 This section shall not be construed to prevent the application of  
11 standard policy provisions applicable to other benefits such as  
12 deductible or copayment provisions. This section does not limit the  
13 authority of an insurer to negotiate rates and contract with specific  
14 providers for the delivery of mammography services. This section shall  
15 not apply to medicare supplement policies or supplemental contracts  
16 covering a specified disease or other limited benefits.

17 **Sec. 729.** RCW 48.20.411 and 1973 1st ex.s. c 188 s 3 are each  
18 amended to read as follows:

19 Notwithstanding any provision of any disability insurance contract  
20 as provided for in this chapter, benefits shall not be denied  
21 thereunder for any health care service performed by a holder of a  
22 license for registered nursing practice or advanced registered nursing  
23 practice issued pursuant to chapter ((18.88)) 18.-- RCW (sections 401  
24 through 431 of this act) if (1) the service performed was within the  
25 lawful scope of such person's license, and (2) such contract would have  
26 provided benefits if such service had been performed by a holder of a  
27 license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That  
28 no provision of chapter 18.71 RCW shall be asserted to deny benefits  
29 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. 730.** RCW 48.21.141 and 1973 1st ex.s. c 188 s 4 are each  
34 amended to read as follows:

35 Notwithstanding any provision of any group disability insurance  
36 contract or blanket disability insurance contract as provided for in  
37 this chapter, benefits shall not be denied thereunder for any health

1 service performed by a holder of a license for registered nursing  
2 practice or advanced registered nursing practice issued pursuant to  
3 chapter ~~((18.88))~~ 18.-- RCW (sections 401 through 431 of this act) if  
4 (1) the service performed was within the lawful scope of such person's  
5 license, and (2) such contract would have provided benefits if such  
6 service had been performed by a holder of a license issued pursuant to  
7 chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter  
8 18.71 RCW shall be asserted to deny benefits under this section.

9 The provisions of this section are intended to be remedial and  
10 procedural to the extent they do not impair the obligation of any  
11 existing contract.

12 **Sec. 731.** RCW 48.21.225 and 1989 c 338 s 2 are each amended to  
13 read as follows:

14 Each group disability insurance policy issued or renewed after  
15 January 1, 1990, that provides coverage for hospital or medical  
16 expenses shall provide coverage for screening or diagnostic mammography  
17 services, provided that such services are delivered upon the  
18 recommendation of the patient's physician or advanced registered nurse  
19 practitioner as authorized by the ~~((board of))~~ nursing care quality  
20 assurance commission pursuant to chapter ~~((18.88))~~ 18.-- RCW (sections  
21 401 through 431 of this act) or physician~~((s))~~ assistant pursuant to  
22 chapter 18.71A RCW.

23 This section shall not be construed to prevent the application of  
24 standard policy provisions applicable to other benefits such as  
25 deductible or copayment provisions. This section does not limit the  
26 authority of an insurer to negotiate rates and contract with specific  
27 providers for the delivery of mammography services. This section shall  
28 not apply to medicare supplement policies or supplemental contracts  
29 covering a specified disease or other limited benefits.

30 **Sec. 732.** RCW 48.44.026 and 1990 c 120 s 6 are each amended to  
31 read as follows:

32 Checks in payment for claims pursuant to any health care service  
33 contract for health care services provided by persons licensed or  
34 regulated under chapters ~~((18.227))~~ 18.25, 18.29, 18.32, 18.53, 18.57,  
35 18.64, 18.71, 18.73, 18.74, 18.83, or ~~((18.88 RCW))~~ 18.-- RCW (sections  
36 401 through 431 of this act), as it applies to registered nurses and  
37 advanced registered nurse practitioners, where the provider is not a

1 participating provider under a contract with the health care service  
2 contractor, shall be made out to both the provider and the enrolled  
3 participant with the provider as the first named payee, jointly, to  
4 require endorsement by each: PROVIDED, That payment shall be made in  
5 the single name of the enrolled participant if the enrolled participant  
6 as part of his or her claim furnishes evidence of prepayment to the  
7 health care service provider: AND PROVIDED FURTHER, That nothing in  
8 this section shall preclude a health care service contractor from  
9 voluntarily issuing payment in the single name of the provider.

10 **Sec. 733.** RCW 48.44.290 and 1986 c 223 s 6 are each amended to  
11 read as follows:

12 Notwithstanding any provision of this chapter, for any health care  
13 service contract thereunder which is entered into or renewed after July  
14 26, 1981, benefits shall not be denied under such contract for any  
15 health care service performed by a holder of a license for registered  
16 nursing practice or advanced registered nursing practice issued  
17 pursuant to chapter ~~((18-88))~~ 18.-- RCW (sections 401 through 431 of  
18 this act) if (1) the service performed was within the lawful scope of  
19 such person's license, and (2) such contract would have provided  
20 benefits if such service had been performed by a holder of a license  
21 issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no  
22 provision of chapter 18.71 RCW shall be asserted to deny benefits under  
23 this section.

24 The provisions of this section are intended to be remedial and  
25 procedural to the extent that they do not impair the obligation of any  
26 existing contract.

27 **Sec. 734.** RCW 48.44.325 and 1989 c 338 s 3 are each amended to  
28 read as follows:

29 Each health care service contract issued or renewed after January  
30 1, 1990, that provides benefits for hospital or medical care shall  
31 provide benefits for screening or diagnostic mammography services,  
32 provided that such services are delivered upon the recommendation of  
33 the patient's physician or advanced registered nurse practitioner as  
34 authorized by the ~~((board of))~~ nursing care quality assurance  
35 commission pursuant to chapter ~~((18-88))~~ 18.-- RCW (sections 401  
36 through 431 of this act) or physician~~((s))~~ assistant pursuant to  
37 chapter 18.71A RCW.



1 This section shall not be construed to prevent the application of  
2 standard contract provisions applicable to other benefits such as  
3 deductible or copayment provisions. This section does not limit the  
4 authority of a contractor to negotiate rates and contract with specific  
5 providers for the delivery of mammography services. This section shall  
6 not apply to medicare supplement policies or supplemental contracts  
7 covering a specified disease or other limited benefits.

8 **Sec. 735.** RCW 48.46.275 and 1989 c 338 s 4 are each amended to  
9 read as follows:

10 Each health maintenance agreement issued or renewed after January  
11 1, 1990, that provides benefits for hospital or medical care shall  
12 provide benefits for screening or diagnostic mammography services,  
13 provided that such services are delivered upon the recommendation of  
14 the patient's physician or advanced registered nurse practitioner as  
15 authorized by the (~~board of~~) nursing care quality assurance  
16 commission pursuant to chapter (~~18.88~~) 18.-- RCW (sections 401  
17 through 431 of this act) or physician(~~s~~) assistant pursuant to  
18 chapter 18.71A RCW.

19 All services must be provided by the health maintenance  
20 organization or rendered upon referral by the health maintenance  
21 organization. This section shall not be construed to prevent the  
22 application of standard agreement provisions applicable to other  
23 benefits such as deductible or copayment provisions. This section does  
24 not limit the authority of a health maintenance organization to  
25 negotiate rates and contract with specific providers for the delivery  
26 of mammography services. This section shall not apply to medicare  
27 supplement policies or supplemental contracts covering a specified  
28 disease or other limited benefits.

29 **Sec. 736.** RCW 69.41.010 and 1989 1st ex.s. c 9 s 426 and 1989 c 36  
30 s 3 are each reenacted and amended to read as follows:

31 As used in this chapter, the following terms (~~has [have]~~) have  
32 the (~~meaning[s]~~) meanings indicated unless the context clearly  
33 requires otherwise:

34 (1) "Administer" means the direct application of a legend drug  
35 whether by injection, inhalation, ingestion, or any other means, to the  
36 body of a patient or research subject by:

37 (a) A practitioner; or

1 (b) The patient or research subject at the direction of the  
2 practitioner.

3 (2) "Deliver" or "delivery" means the actual, constructive, or  
4 attempted transfer from one person to another of a legend drug, whether  
5 or not there is an agency relationship.

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

7 (4) "Dispense" means the interpretation of a prescription or order  
8 for a legend drug and, pursuant to that prescription or order, the  
9 proper selection, measuring, compounding, labeling, or packaging  
10 necessary to prepare that prescription or order for delivery.

11 (5) "Dispenser" means a practitioner who dispenses.

12 (6) "Distribute" means to deliver other than by administering or  
13 dispensing a legend drug.

14 (7) "Distributor" means a person who distributes.

15 (8) "Drug" means:

16 (a) Substances recognized as drugs in the official United States  
17 pharmacopoeia, official homeopathic pharmacopoeia of the United States,  
18 or official national formulary, or any supplement to any of them;

19 (b) Substances intended for use in the diagnosis, cure, mitigation,  
20 treatment, or prevention of disease in man or animals;

21 (c) Substances (other than food, minerals or vitamins) intended to  
22 affect the structure or any function of the body of man or animals; and

23 (d) Substances intended for use as a component of any article  
24 specified in clause (a), (b), or (c) of this subsection. It does not  
25 include devices or their components, parts, or accessories.

26 (9) "Legend drugs" means any drugs which are required by state law  
27 or regulation of the state board of pharmacy to be dispensed on  
28 prescription only or are restricted to use by practitioners only.

29 (10) "Person" means individual, corporation, government or  
30 governmental subdivision or agency, business trust, estate, trust,  
31 partnership or association, or any other legal entity.

32 (11) "Practitioner" means:

33 (a) A physician under chapter 18.71 RCW, an osteopathic physician  
34 or an osteopathic physician and surgeon under chapter 18.57 RCW, a  
35 dentist under chapter 18.32 RCW, a (~~podiatrist~~) podiatric physician  
36 and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92  
37 RCW, a registered nurse (~~(under chapter 18.88 RCW, a)~~), advanced  
38 registered nurse practitioner, or licensed practical nurse under  
39 chapter (~~(18.78)~~) 18.-- RCW (sections 401 through 431 of this act), an

1 optometrist under chapter 18.53 RCW who is certified by the optometry  
2 board under RCW 18.53.010, an osteopathic physician(~~(s)~~) assistant  
3 under chapter 18.57A RCW, (~~(or)~~) a physician(~~(s)~~) assistant under  
4 chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

5 (b) A pharmacy, hospital, or other institution licensed,  
6 registered, or otherwise permitted to distribute, dispense, conduct  
7 research with respect to, or to administer a legend drug in the course  
8 of professional practice or research in this state; and

9 (c) A physician licensed to practice medicine and surgery or a  
10 physician licensed to practice osteopathy and surgery in any state, or  
11 province of Canada, which shares a common border with the state of  
12 Washington.

13 (12) "Secretary" means the secretary of health or the secretary's  
14 designee.

15 **Sec. 737.** RCW 69.41.030 and 1991 c 30 s 1 are each amended to read  
16 as follows:

17 It shall be unlawful for any person to sell, deliver, or possess  
18 any legend drug except upon the order or prescription of a physician  
19 under chapter 18.71 RCW, an osteopathic physician or an osteopathic  
20 physician and surgeon under chapter 18.57 RCW, a dentist under chapter  
21 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW,  
22 a veterinarian under chapter 18.92 RCW, a commissioned medical or  
23 dental officer in the United States armed forces or public health  
24 service in the discharge of his or her official duties, a duly licensed  
25 physician or dentist employed by the veterans administration in the  
26 discharge of his or her official duties, a registered nurse or advanced  
27 registered nurse practitioner under chapter (~~(18.88)~~) 18.-- RCW  
28 (sections 401 through 431 of this act) when authorized by the (~~(board~~  
29 ~~of)~~) nursing care quality assurance commission, an osteopathic  
30 physician(~~(s)~~) assistant under chapter 18.57A RCW when authorized by  
31 the committee of osteopathic examiners, a physician assistant under  
32 chapter 18.71A RCW when authorized by the (~~(board—of)~~) medical  
33 (~~(examiners)~~) quality assurance commission, a physician licensed to  
34 practice medicine and surgery or a physician licensed to practice  
35 osteopathy and surgery, a dentist licensed to practice dentistry, a  
36 podiatric physician and surgeon licensed to practice podiatric medicine  
37 and surgery, or a veterinarian licensed to practice veterinary  
38 medicine, in any province of Canada which shares a common border with

1 the state of Washington or in any state of the United States:  
2 PROVIDED, HOWEVER, That the above provisions shall not apply to sale,  
3 delivery, or possession by drug wholesalers or drug manufacturers, or  
4 their agents or employees, or to any practitioner acting within the  
5 scope of his or her license, or to a common or contract carrier or  
6 warehouseman, or any employee thereof, whose possession of any legend  
7 drug is in the usual course of business or employment: PROVIDED  
8 FURTHER, That nothing in this chapter or chapter 18.64 RCW shall  
9 prevent a family planning clinic that is under contract with the  
10 department of social and health services from selling, delivering,  
11 possessing, and dispensing commercially prepackaged oral contraceptives  
12 prescribed by authorized, licensed health care practitioners.

13 **Sec. 738.** RCW 69.45.010 and 1989 1st ex.s. c 9 s 444 are each  
14 amended to read as follows:

15 The definitions in this section apply throughout this chapter.

16 (1) "Board" means the board of pharmacy.

17 (2) "Drug samples" means any federal food and drug administration  
18 approved controlled substance, legend drug, or products requiring  
19 prescriptions in this state, which is distributed at no charge to a  
20 practitioner by a manufacturer or a manufacturer's representative,  
21 exclusive of drugs under clinical investigations approved by the  
22 federal food and drug administration.

23 (3) "Controlled substance" means a drug, substance, or immediate  
24 precursor of such drug or substance, so designated under or pursuant to  
25 chapter 69.50 RCW, the uniform controlled substances act.

26 (4) "Deliver" or "delivery" means the actual, constructive, or  
27 attempted transfer from one person to another of a drug or device,  
28 whether or not there is an agency relationship.

29 (5) "Dispense" means the interpretation of a prescription or order  
30 for a drug, biological, or device and, pursuant to that prescription or  
31 order, the proper selection, measuring, compounding, labeling, or  
32 packaging necessary to prepare that prescription or order for delivery.

33 (6) "Distribute" means to deliver, other than by administering or  
34 dispensing, a legend drug.

35 (7) "Legend drug" means any drug that is required by state law or  
36 by regulations of the board to be dispensed on prescription only or is  
37 restricted to use by practitioners only.

1 (8) "Manufacturer" means a person or other entity engaged in the  
2 manufacture or distribution of drugs or devices, but does not include  
3 a manufacturer's representative.

4 (9) "Person" means any individual, corporation, government or  
5 governmental subdivision or agency, business trust, estate, trust,  
6 partnership, association, or any other legal entity.

7 (10) "Practitioner" means a physician under chapter 18.71 RCW, an  
8 osteopathic physician or an osteopathic physician and surgeon under  
9 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a (~~podiatrist~~)  
10 podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian  
11 under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a  
12 commissioned medical or dental officer in the United States armed  
13 forces or the public health service in the discharge of his or her  
14 official duties, a duly licensed physician or dentist employed by the  
15 veterans administration in the discharge of his or her official duties,  
16 a registered nurse or advanced registered nurse practitioner under  
17 chapter (~~18.88~~) 18.-- RCW (sections 401 through 431 of this act) when  
18 authorized to prescribe by the (~~board of~~) nursing care quality  
19 assurance commission, an osteopathic (~~physician's~~) physician  
20 assistant under chapter 18.57A RCW when authorized by the board of  
21 osteopathic medicine and surgery, or a (~~physician's~~) physician  
22 assistant under chapter 18.71A RCW when authorized by the (~~board of~~)  
23 medical (~~examiners~~) quality assurance commission.

24 (11) "Manufacturer's representative" means an agent or employee of  
25 a drug manufacturer who is authorized by the drug manufacturer to  
26 possess drug samples for the purpose of distribution in this state to  
27 appropriately authorized health care practitioners.

28 (12) "Reasonable cause" means a state of facts found to exist that  
29 would warrant a reasonably intelligent and prudent person to believe  
30 that a person has violated state or federal drug laws or regulations.

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

32 (14) "Secretary" means the secretary of health or the secretary's  
33 designee.

34 **Sec. 739.** RCW 69.50.101 and 1993 c 187 s 1 are each amended to  
35 read as follows:

36 Unless the context clearly requires otherwise, definitions of terms  
37 shall be as indicated where used in this chapter:

1 (a) "Administer" means to apply a controlled substance, whether by  
2 injection, inhalation, ingestion, or any other means, directly to the  
3 body of a patient or research subject by:

4 (1) a practitioner authorized to prescribe (or, by the  
5 practitioner's authorized agent); or

6 (2) the patient or research subject at the direction and in the  
7 presence of the practitioner.

8 (b) "Agent" means an authorized person who acts on behalf of or at  
9 the direction of a manufacturer, distributor, or dispenser. It does  
10 not include a common or contract carrier, public warehouseperson, or  
11 employee of the carrier or warehouseperson.

12 (c) "Board" means the state board of pharmacy.

13 (d) "Controlled substance" means a drug, substance, or immediate  
14 precursor included in Schedules I through V as set forth in federal or  
15 state laws, or federal or board rules.

16 (e)(1) "Controlled substance analog" means a substance the chemical  
17 structure of which is substantially similar to the chemical structure  
18 of a controlled substance in Schedule I or II and:

19 (i) that has a stimulant, depressant, or hallucinogenic effect on  
20 the central nervous system substantially similar to the stimulant,  
21 depressant, or hallucinogenic effect on the central nervous system of  
22 a controlled substance included in Schedule I or II; or

23 (ii) with respect to a particular individual, that the individual  
24 represents or intends to have a stimulant, depressant, or  
25 hallucinogenic effect on the central nervous system substantially  
26 similar to the stimulant, depressant, or hallucinogenic effect on the  
27 central nervous system of a controlled substance included in Schedule  
28 I or II.

29 (2) The term does not include:

30 (i) a controlled substance;

31 (ii) a substance for which there is an approved new drug  
32 application;

33 (iii) a substance with respect to which an exemption is in effect  
34 for investigational use by a particular person under Section 505 of the  
35 federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent  
36 conduct with respect to the substance is pursuant to the exemption; or

37 (iv) any substance to the extent not intended for human consumption  
38 before an exemption takes effect with respect to the substance.

1 (f) "Deliver" or "delivery," means the actual or constructive  
2 transfer from one person to another of a substance, whether or not  
3 there is an agency relationship.

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

5 (h) "Dispense" means the interpretation of a prescription or order  
6 for a controlled substance and, pursuant to that prescription or order,  
7 the proper selection, measuring, compounding, labeling, or packaging  
8 necessary to prepare that prescription or order for delivery.

9 (i) "Dispenser" means a practitioner who dispenses.

10 (j) "Distribute" means to deliver other than by administering or  
11 dispensing a controlled substance.

12 (k) "Distributor" means a person who distributes.

13 (l) "Drug" means (1) a controlled substance recognized as a drug in  
14 the official United States pharmacopoeia/national formulary or the  
15 official homeopathic pharmacopoeia of the United States, or any  
16 supplement to them; (2) controlled substances intended for use in the  
17 diagnosis, cure, mitigation, treatment, or prevention of disease in  
18 individuals or animals; (3) controlled substances (other than food)  
19 intended to affect the structure or any function of the body of  
20 individuals or animals; and (4) controlled substances intended for use  
21 as a component of any article specified in (1), (2), or (3) of this  
22 subsection. The term does not include devices or their components,  
23 parts, or accessories.

24 (m) "Drug enforcement administration" means the drug enforcement  
25 administration in the United States Department of Justice, or its  
26 successor agency.

27 (n) "Immediate precursor" means a substance:

28 (1) that the state board of pharmacy has found to be and by rule  
29 designates as being the principal compound commonly used, or produced  
30 primarily for use, in the manufacture of a controlled substance;

31 (2) that is an immediate chemical intermediary used or likely to be  
32 used in the manufacture of a controlled substance; and

33 (3) the control of which is necessary to prevent, curtail, or limit  
34 the manufacture of the controlled substance.

35 (o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5),  
36 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any  
37 geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c)  
38 the term includes any positional isomer; and in RCW 69.50.204(a)(35),

1 69.50.204(c), and 69.50.208(a) the term includes any positional or  
2 geometric isomer.

3 (p) "Manufacture" means the production, preparation, propagation,  
4 compounding, conversion, or processing of a controlled substance,  
5 either directly or indirectly or by extraction from substances of  
6 natural origin, or independently by means of chemical synthesis, or by  
7 a combination of extraction and chemical synthesis, and includes any  
8 packaging or repackaging of the substance or labeling or relabeling of  
9 its container. The term does not include the preparation, compounding,  
10 packaging, repackaging, labeling, or relabeling of a controlled  
11 substance:

12 (1) by a practitioner as an incident to the practitioner's  
13 administering or dispensing of a controlled substance in the course of  
14 the practitioner's professional practice; or

15 (2) by a practitioner, or by the practitioner's authorized agent  
16 under the practitioner's supervision, for the purpose of, or as an  
17 incident to, research, teaching, or chemical analysis and not for sale.

18 (q) "Marijuana" or "marihuana" means all parts of the plant  
19 Cannabis, whether growing or not; the seeds thereof; the resin  
20 extracted from any part of the plant; and every compound, manufacture,  
21 salt, derivative, mixture, or preparation of the plant, its seeds or  
22 resin. The term does not include the mature stalks of the plant, fiber  
23 produced from the stalks, oil or cake made from the seeds of the plant,  
24 any other compound, manufacture, salt, derivative, mixture, or  
25 preparation of the mature stalks (except the resin extracted  
26 therefrom), fiber, oil, or cake, or the sterilized seed of the plant  
27 which is incapable of germination.

28 (r) "Narcotic drug" means any of the following, whether produced  
29 directly or indirectly by extraction from substances of vegetable  
30 origin, or independently by means of chemical synthesis, or by a  
31 combination of extraction and chemical synthesis:

32 (1) Opium, opium derivative, and any derivative of opium or opium  
33 derivative, including their salts, isomers, and salts of isomers,  
34 whenever the existence of the salts, isomers, and salts of isomers is  
35 possible within the specific chemical designation. The term does not  
36 include the isoquinoline alkaloids of opium.

37 (2) Synthetic opiate and any derivative of synthetic opiate,  
38 including their isomers, esters, ethers, salts, and salts of isomers,



1 esters, and ethers, whenever the existence of the isomers, esters,  
2 ethers, and salts is possible within the specific chemical designation.

3 (3) Poppy straw and concentrate of poppy straw.

4 (4) Coca leaves, except coca leaves and extracts of coca leaves  
5 from which cocaine, ecgonine, and derivatives or ecgonine or their  
6 salts have been removed.

7 (5) Cocaine, or any salt, isomer, or salt of isomer thereof.

8 (6) Cocaine base.

9 (7) Ecgonine, or any derivative, salt, isomer, or salt of isomer  
10 thereof.

11 (8) Any compound, mixture, or preparation containing any quantity  
12 of any substance referred to in subparagraphs (1) through (7).

13 (s) "Opiate" means any substance having an addiction-forming or  
14 addiction-sustaining liability similar to morphine or being capable of  
15 conversion into a drug having addiction-forming or addiction-sustaining  
16 liability. The term includes opium, substances derived from opium  
17 (opium derivatives), and synthetic opiates. The term does not include,  
18 unless specifically designated as controlled under RCW 69.50.201, the  
19 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
20 (dextromethorphan). The term includes the racemic and levorotatory  
21 forms of dextromethorphan.

22 (t) "Opium poppy" means the plant of the species *Papaver somniferum*  
23 L., except its seeds.

24 (u) "Person" means individual, corporation, business trust, estate,  
25 trust, partnership, association, joint venture, government,  
26 governmental subdivision or agency, or any other legal or commercial  
27 entity.

28 (v) "Poppy straw" means all parts, except the seeds, of the opium  
29 poppy, after mowing.

30 (w) "Practitioner" means:

31 (1) A physician under chapter 18.71 RCW, a physician assistant  
32 under chapter 18.71A RCW, an osteopathic physician and surgeon under  
33 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric  
34 physician and surgeon under chapter 18.22 RCW, a veterinarian under  
35 chapter 18.92 RCW, a registered nurse, advanced registered nurse  
36 practitioner, or licensed practical nurse under chapter ~~((18.88))~~ 18.--  
37 RCW (sections 401 through 431 of this act), ((a licensed practical  
38 nurse under chapter 18.78 RCW,)) a pharmacist under chapter 18.64 RCW  
39 or a scientific investigator under this chapter, licensed, registered

1 or otherwise permitted insofar as is consistent with those licensing  
2 laws to distribute, dispense, conduct research with respect to or  
3 administer a controlled substance in the course of their professional  
4 practice or research in this state.

5 (2) A pharmacy, hospital or other institution licensed, registered,  
6 or otherwise permitted to distribute, dispense, conduct research with  
7 respect to or to administer a controlled substance in the course of  
8 professional practice or research in this state.

9 (3) A physician licensed to practice medicine and surgery, a  
10 physician licensed to practice osteopathy and surgery, a dentist  
11 licensed to practice dentistry, a podiatric physician and surgeon  
12 licensed to practice podiatric medicine and surgery, or a veterinarian  
13 licensed to practice veterinary medicine in any state of the United  
14 States.

15 (x) "Prescription" means an order for controlled substances issued  
16 by a practitioner duly authorized by law or rule in the state of  
17 Washington to prescribe controlled substances within the scope of his  
18 or her professional practice for a legitimate medical purpose.

19 (y) "Production" includes the manufacturing, planting, cultivating,  
20 growing, or harvesting of a controlled substance.

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

23 (aa) "State," unless the context otherwise requires, means a state  
24 of the United States, the District of Columbia, the Commonwealth of  
25 Puerto Rico, or a territory or insular possession subject to the  
26 jurisdiction of the United States.

27 (bb) "Ultimate user" means an individual who lawfully possesses a  
28 controlled substance for the individual's own use or for the use of a  
29 member of the individual's household or for administering to an animal  
30 owned by the individual or by a member of the individual's household.

31 **Sec. 740.** RCW 69.50.402 and 1980 c 138 s 6 are each amended to  
32 read as follows:

33 (a) It is unlawful for any person:

34 (1) who is subject to Article III to distribute or dispense a  
35 controlled substance in violation of RCW 69.50.308;

36 (2) who is a registrant, to manufacture a controlled substance not  
37 authorized by his registration, or to distribute or dispense a

1 controlled substance not authorized by his registration to another  
2 registrant or other authorized person;

3 (3) who is a practitioner, to prescribe, order, dispense,  
4 administer, supply, or give to any person:

5 (i) any amphetamine, including its salts, optical isomers, and  
6 salts of optical isomers classified as a schedule II controlled  
7 substance by the board of pharmacy pursuant to chapter 34.05 RCW; or

8 (ii) any nonnarcotic stimulant classified as a schedule II  
9 controlled substance and designated as a nonnarcotic stimulant by the  
10 board of pharmacy pursuant to chapter 34.05 RCW;

11 except for the treatment of narcolepsy or for the treatment of  
12 hyperkinesia, or for the treatment of drug-induced brain dysfunction,  
13 or for the treatment of epilepsy, or for the differential diagnostic  
14 psychiatric evaluation of depression, or for the treatment of  
15 depression shown to be refractory to other therapeutic modalities, or  
16 for the clinical investigation of the effects of such drugs or  
17 compounds, in which case an investigative protocol therefor shall have  
18 been submitted to and reviewed and approved by the state board of  
19 pharmacy before the investigation has been begun: PROVIDED, That the  
20 board of pharmacy, in consultation with the medical (~~disciplinary~~  
21 ~~board~~) quality assurance commission and the osteopathic disciplinary  
22 board, may establish by rule, pursuant to chapter 34.05 RCW, disease  
23 states or conditions in addition to those listed in this subsection for  
24 the treatment of which Schedule II nonnarcotic stimulants may be  
25 prescribed, ordered, dispensed, administered, supplied, or given to  
26 patients by practitioners: AND PROVIDED, FURTHER, That investigations  
27 by the board of pharmacy of abuse of prescriptive authority by  
28 physicians, licensed pursuant to chapter 18.71 RCW, pursuant to  
29 subsection (a)(3) of this section shall be done in consultation with  
30 the medical (~~disciplinary board~~) quality assurance commission;

31 (4) to refuse or fail to make, keep or furnish any record,  
32 notification, order form, statement, invoice, or information required  
33 under this chapter;

34 (5) to refuse an entry into any premises for any inspection  
35 authorized by this chapter; or

36 (6) knowingly to keep or maintain any store, shop, warehouse,  
37 dwelling, building, vehicle, boat, aircraft, or other structure or  
38 place, which is resorted to by persons using controlled substances in

1 violation of this chapter for the purpose of using these substances, or  
2 which is used for keeping or selling them in violation of this chapter.

3 (b) Any person who violates this section is guilty of a crime and  
4 upon conviction may be imprisoned for not more than two years, fined  
5 not more than two thousand dollars, or both.

6 **Sec. 741.** RCW 70.02.030 and 1993 c 448 s 3 are each amended to  
7 read as follows:

8 (1) A patient may authorize a health care provider to disclose the  
9 patient's health care information. A health care provider shall honor  
10 an authorization and, if requested, provide a copy of the recorded  
11 health care information unless the health care provider denies the  
12 patient access to health care information under RCW 70.02.090.

13 (2) A health care provider may charge a reasonable fee for  
14 providing the health care information and is not required to honor an  
15 authorization until the fee is paid.

16 (3) To be valid, a disclosure authorization to a health care  
17 provider shall:

18 (a) Be in writing, dated, and signed by the patient;

19 (b) Identify the nature of the information to be disclosed;

20 (c) Identify the name, address, and institutional affiliation of  
21 the person to whom the information is to be disclosed;

22 (d) Except for third-party payors, identify the provider who is to  
23 make the disclosure; and

24 (e) Identify the patient.

25 (4) Except as provided by this chapter, the signing of an  
26 authorization by a patient is not a waiver of any rights a patient has  
27 under other statutes, the rules of evidence, or common law.

28 (5) A health care provider shall retain each authorization or  
29 revocation in conjunction with any health care information from which  
30 disclosures are made. This requirement shall not apply to disclosures  
31 to third-party payors.

32 (6) Except for authorizations given pursuant to an agreement with  
33 a treatment or monitoring program or disciplinary authority under  
34 chapter ((18.72)) 18.71 or 18.130 RCW or to provide information to  
35 third-party payors, an authorization may not permit the release of  
36 health care information relating to future health care that the patient  
37 receives more than ninety days after the authorization was signed.  
38 Patients shall be advised of the period of validity of their

1 authorization on the disclosure authorization form. If the  
2 authorization does not contain an expiration date, it expires ninety  
3 days after it is signed.

4 **Sec. 742.** RCW 70.41.200 and 1993 c 492 s 415 are each amended to  
5 read as follows:

6 (1) Every hospital shall maintain a coordinated quality improvement  
7 program for the improvement of the quality of health care services  
8 rendered to patients and the identification and prevention of medical  
9 malpractice. The program shall include at least the following:

10 (a) The establishment of a quality improvement committee with the  
11 responsibility to review the services rendered in the hospital, both  
12 retrospectively and prospectively, in order to improve the quality of  
13 medical care of patients and to prevent medical malpractice. The  
14 committee shall oversee and coordinate the quality improvement and  
15 medical malpractice prevention program and shall insure that  
16 information gathered pursuant to the program is used to review and to  
17 revise hospital policies and procedures;

18 (b) A medical staff privileges sanction procedure through which  
19 credentials, physical and mental capacity, and competence in delivering  
20 health care services are periodically reviewed as part of an evaluation  
21 of staff privileges;

22 (c) The periodic review of the credentials, physical and mental  
23 capacity, and competence in delivering health care services of all  
24 persons who are employed or associated with the hospital;

25 (d) A procedure for the prompt resolution of grievances by patients  
26 or their representatives related to accidents, injuries, treatment, and  
27 other events that may result in claims of medical malpractice;

28 (e) The maintenance and continuous collection of information  
29 concerning the hospital's experience with negative health care outcomes  
30 and incidents injurious to patients, patient grievances, professional  
31 liability premiums, settlements, awards, costs incurred by the hospital  
32 for patient injury prevention, and safety improvement activities;

33 (f) The maintenance of relevant and appropriate information  
34 gathered pursuant to (a) through (e) of this subsection concerning  
35 individual physicians within the physician's personnel or credential  
36 file maintained by the hospital;

37 (g) Education programs dealing with quality improvement, patient  
38 safety, injury prevention, staff responsibility to report professional

1 misconduct, the legal aspects of patient care, improved communication  
2 with patients, and causes of malpractice claims for staff personnel  
3 engaged in patient care activities; and

4 (h) Policies to ensure compliance with the reporting requirements  
5 of this section.

6 (2) Any person who, in substantial good faith, provides information  
7 to further the purposes of the quality improvement and medical  
8 malpractice prevention program or who, in substantial good faith,  
9 participates on the quality improvement committee shall not be subject  
10 to an action for civil damages or other relief as a result of such  
11 activity.

12 (3) Information and documents, including complaints and incident  
13 reports, created specifically for, and collected, and maintained by a  
14 quality improvement committee are not subject to discovery or  
15 introduction into evidence in any civil action, and no person who was  
16 in attendance at a meeting of such committee or who participated in the  
17 creation, collection, or maintenance of information or documents  
18 specifically for the committee shall be permitted or required to  
19 testify in any civil action as to the content of such proceedings or  
20 the documents and information prepared specifically for the committee.  
21 This subsection does not preclude: (a) In any civil action, the  
22 discovery of the identity of persons involved in the medical care that  
23 is the basis of the civil action whose involvement was independent of  
24 any quality improvement activity; (b) in any civil action, the  
25 testimony of any person concerning the facts which form the basis for  
26 the institution of such proceedings of which the person had personal  
27 knowledge acquired independently of such proceedings; (c) in any civil  
28 action by a health care provider regarding the restriction or  
29 revocation of that individual's clinical or staff privileges,  
30 introduction into evidence information collected and maintained by  
31 quality improvement committees regarding such health care provider; (d)  
32 in any civil action, disclosure of the fact that staff privileges were  
33 terminated or restricted, including the specific restrictions imposed,  
34 if any and the reasons for the restrictions; or (e) in any civil  
35 action, discovery and introduction into evidence of the patient's  
36 medical records required by regulation of the department of health to  
37 be made regarding the care and treatment received.

38 (4) Each quality improvement committee shall, on at least a  
39 semiannual basis, report to the governing board of the hospital in

1 which the committee is located. The report shall review the quality  
2 improvement activities conducted by the committee, and any actions  
3 taken as a result of those activities.

4 (5) The department of health shall adopt such rules as are deemed  
5 appropriate to effectuate the purposes of this section.

6 (6) The medical (~~(disciplinary board)~~) quality assurance commission  
7 or the board of osteopathic medicine and surgery, as appropriate, may  
8 review and audit the records of committee decisions in which a  
9 physician's privileges are terminated or restricted. Each hospital  
10 shall produce and make accessible to the commission or board the  
11 appropriate records and otherwise facilitate the review and audit.  
12 Information so gained shall not be subject to the discovery process and  
13 confidentiality shall be respected as required by subsection (3) of  
14 this section. Failure of a hospital to comply with this subsection is  
15 punishable by a civil penalty not to exceed two hundred fifty dollars.

16 (7) Violation of this section shall not be considered negligence  
17 per se.

18 **Sec. 743.** RCW 70.41.210 and 1986 c 300 s 7 are each amended to  
19 read as follows:

20 The chief administrator or executive officer of a hospital shall  
21 report to the (~~board~~) medical quality assurance commission when a  
22 physician's clinical privileges are terminated or are restricted based  
23 on a determination, in accordance with an institution's bylaws, that a  
24 physician has either committed an act or acts which may constitute  
25 unprofessional conduct. The officer shall also report if a physician  
26 accepts voluntary termination in order to foreclose or terminate actual  
27 or possible hospital action to suspend, restrict, or terminate a  
28 physician's clinical privileges. Such a report shall be made within  
29 sixty days of the date action was taken by the hospital's peer review  
30 committee or the physician's acceptance of voluntary termination or  
31 restriction of privileges. Failure of a hospital to comply with this  
32 section is punishable by a civil penalty not to exceed two hundred  
33 fifty dollars.

34 **Sec. 744.** RCW 70.41.230 and 1993 c 492 s 416 are each amended to  
35 read as follows:

36 (1) Prior to granting or renewing clinical privileges or  
37 association of any physician or hiring a physician, a hospital or

1 facility approved pursuant to this chapter shall request from the  
2 physician and the physician shall provide the following information:

3 (a) The name of any hospital or facility with or at which the  
4 physician had or has any association, employment, privileges, or  
5 practice;

6 (b) If such association, employment, privilege, or practice was  
7 discontinued, the reasons for its discontinuation;

8 (c) Any pending professional medical misconduct proceedings or any  
9 pending medical malpractice actions in this state or another state, the  
10 substance of the allegations in the proceedings or actions, and any  
11 additional information concerning the proceedings or actions as the  
12 physician deems appropriate;

13 (d) The substance of the findings in the actions or proceedings and  
14 any additional information concerning the actions or proceedings as the  
15 physician deems appropriate;

16 (e) A waiver by the physician of any confidentiality provisions  
17 concerning the information required to be provided to hospitals  
18 pursuant to this subsection; and

19 (f) A verification by the physician that the information provided  
20 by the physician is accurate and complete.

21 (2) Prior to granting privileges or association to any physician or  
22 hiring a physician, a hospital or facility approved pursuant to this  
23 chapter shall request from any hospital with or at which the physician  
24 had or has privileges, was associated, or was employed, the following  
25 information concerning the physician:

26 (a) Any pending professional medical misconduct proceedings or any  
27 pending medical malpractice actions, in this state or another state;

28 (b) Any judgment or settlement of a medical malpractice action and  
29 any finding of professional misconduct in this state or another state  
30 by a licensing or disciplinary board; and

31 (c) Any information required to be reported by hospitals pursuant  
32 to RCW 18.72.265 (as recodified by this act).

33 (3) The medical (~~(disciplinary board)~~) quality assurance commission  
34 shall be advised within thirty days of the name of any physician denied  
35 staff privileges, association, or employment on the basis of adverse  
36 findings under subsection (1) of this section.

37 (4) A hospital or facility that receives a request for information  
38 from another hospital or facility pursuant to subsections (1) and (2)  
39 of this section shall provide such information concerning the physician



1 in question to the extent such information is known to the hospital or  
2 facility receiving such a request, including the reasons for  
3 suspension, termination, or curtailment of employment or privileges at  
4 the hospital or facility. A hospital, facility, or other person  
5 providing such information in good faith is not liable in any civil  
6 action for the release of such information.

7 (5) Information and documents, including complaints and incident  
8 reports, created specifically for, and collected, and maintained by a  
9 quality improvement committee are not subject to discovery or  
10 introduction into evidence in any civil action, and no person who was  
11 in attendance at a meeting of such committee or who participated in the  
12 creation, collection, or maintenance of information or documents  
13 specifically for the committee shall be permitted or required to  
14 testify in any civil action as to the content of such proceedings or  
15 the documents and information prepared specifically for the committee.  
16 This subsection does not preclude: (a) In any civil action, the  
17 discovery of the identity of persons involved in the medical care that  
18 is the basis of the civil action whose involvement was independent of  
19 any quality improvement activity; (b) in any civil action, the  
20 testimony of any person concerning the facts which form the basis for  
21 the institution of such proceedings of which the person had personal  
22 knowledge acquired independently of such proceedings; (c) in any civil  
23 action by a health care provider regarding the restriction or  
24 revocation of that individual's clinical or staff privileges,  
25 introduction into evidence information collected and maintained by  
26 quality improvement committees regarding such health care provider; (d)  
27 in any civil action, disclosure of the fact that staff privileges were  
28 terminated or restricted, including the specific restrictions imposed,  
29 if any and the reasons for the restrictions; or (e) in any civil  
30 action, discovery and introduction into evidence of the patient's  
31 medical records required by regulation of the department of health to  
32 be made regarding the care and treatment received.

33 (6) Hospitals shall be granted access to information held by the  
34 medical (~~disciplinary board~~) quality assurance commission and the  
35 board of osteopathic medicine and surgery pertinent to decisions of the  
36 hospital regarding credentialing and recredentialing of practitioners.

37 (7) Violation of this section shall not be considered negligence  
38 per se.

1       **Sec. 745.** RCW 70.127.250 and 1993 c 42 s 10 are each amended to  
2 read as follows:

3       (1) In addition to the rules consistent with RCW 70.127.005 adopted  
4 under RCW 70.127.120, the department shall adopt rules for home health  
5 agencies which address the following:

6       (a) Establishment of case management guidelines for acute and  
7 maintenance care patients;

8       (b) Establishment of guidelines for periodic review of the home  
9 health care plan of care and plan of treatment by appropriate health  
10 care professionals; and

11       (c) Maintenance of written policies regarding the delivery and  
12 supervision of patient care and clinical consultation as necessary by  
13 appropriate health care professionals.

14       (2) As used in this section:

15       (a) "Acute care" means care provided by a home health agency for  
16 patients who are not medically stable or have not attained a  
17 satisfactory level of rehabilitation. These patients require frequent  
18 monitoring by a health care professional in order to maintain their  
19 health status.

20       (b) "Maintenance care" means care provided by home health agencies  
21 that is necessary to support an existing level of health and to  
22 preserve a patient from further failure or decline.

23       (c) "Home health plan of care" means a written plan of care  
24 established by a home health agency by appropriate health care  
25 professionals that describes maintenance care to be provided. A  
26 patient or his or her representative shall be allowed to participate in  
27 the development of the plan of care to the extent practicable.

28       (d) "Home health plan of treatment" means a written plan of care  
29 established by a physician licensed under chapter 18.57 or 18.71 RCW,  
30 a podiatric physician and surgeon licensed under chapter 18.22 RCW, or  
31 an advanced registered nurse practitioner as authorized by the ((board  
32 of)) nursing care quality assurance commission under chapter ((18.88))  
33 18.-- RCW (sections 401 through 431 of this act), in consultation with  
34 appropriate health care professionals within the agency that describes  
35 medically necessary acute care to be provided for treatment of illness  
36 or injury.

37       **Sec. 746.** RCW 70.180.030 and 1990 c 271 s 3 are each amended to  
38 read as follows:

1 (1) The department, in cooperation with (~~{the}~~) the University of  
2 Washington school of medicine, the state's registered nursing programs,  
3 the state's pharmacy programs, and other appropriate public and private  
4 agencies and associations, shall develop and keep current a register of  
5 physicians, physician assistants, pharmacists, and advanced registered  
6 nurse practitioners who are available to practice on a short-term basis  
7 in rural communities of the state. The department shall periodically  
8 screen individuals on the registry for violations of the Uniform  
9 Disciplinary Act as authorized in chapter 18.130 RCW. If a finding of  
10 unprofessional conduct has been made by the appropriate disciplinary  
11 authority against any individual on the registry, the name of that  
12 individual shall be removed from the registry and that person shall be  
13 made ineligible for the program. The department shall include a list  
14 of back-up physicians and hospitals who can provide support to health  
15 care providers in the pool. The register shall be compiled, published,  
16 and made available to all rural hospitals, public health departments  
17 and districts, rural pharmacies, and other appropriate public and  
18 private agencies and associations. The department shall coordinate  
19 with existing entities involved in health professional recruitment when  
20 developing the registry for the health professional temporary  
21 substitute resource pool.

22 (2) Eligible health care professionals are those licensed under  
23 chapters 18.57, 18.57A, 18.64, 18.71, and 18.71A RCW and advanced  
24 registered nurse practitioners licensed under chapter (~~{18.88}~~) 18.--  
25 RCW (sections 401 through 431 of this act).

26 (3) Participating health care professionals shall receive:

27 (a) Reimbursement for travel to and from the rural community and  
28 for lodging at a rate determined under RCW 43.03.050 and 43.03.060;

29 (b) Medical malpractice insurance purchased by the department, or  
30 the department may reimburse participants for medical malpractice  
31 insurance premium costs for medical liability while providing health  
32 care services in the program, if the services provided are not covered  
33 by the participant's or local provider's existing medical malpractice  
34 insurance; and

35 (c) Information on back-up support from other physicians and  
36 hospitals in the area to the extent necessary and available.

37 (4) The department may require rural communities to participate in  
38 health professional recruitment programs as a condition for providing  
39 a temporary substitute health care professional if the community does

1 not have adequate permanent health care personnel. To the extent  
2 deemed appropriate and subject to funding, the department may also  
3 require communities to participate in other programs or projects, such  
4 as the rural health system project authorized in chapter 70.175 RCW,  
5 that are designed to assist communities to reorganize the delivery of  
6 rural health care services.

7 (5) The department may require a community match for assistance  
8 provided in subsection (3) of this section if it determines that  
9 adequate community resources exist.

10 (6) The maximum continuous period of time a participating health  
11 professional may serve in a community is ninety days. The department  
12 may modify or waive this limitation should it determine that the health  
13 and safety of the community warrants a waiver or modification. The  
14 community shall be responsible for all salary expenses of participating  
15 health professionals.

16 **Sec. 747.** RCW 71.05.210 and 1991 c 364 s 11 and 1991 c 105 s 4 are  
17 each reenacted and amended to read as follows:

18 Each person involuntarily admitted to an evaluation and treatment  
19 facility shall, within twenty-four hours of his or her admission, be  
20 examined and evaluated by a licensed physician who may be assisted by  
21 a physician assistant according to chapter 18.71A RCW or ((a)) an  
22 advanced registered nurse practitioner according to chapter ((18.88))  
23 18.-- RCW (sections 401 through 431 of this act) and a mental health  
24 professional as defined in this chapter, and shall receive such  
25 treatment and care as his or her condition requires including treatment  
26 on an outpatient basis for the period that he or she is detained,  
27 except that, beginning twenty-four hours prior to a court proceeding,  
28 the individual may refuse all but emergency life-saving treatment, and  
29 the individual shall be informed at an appropriate time of his or her  
30 right to such refusal of treatment. Such person shall be detained up  
31 to seventy-two hours, if, in the opinion of the professional person in  
32 charge of the facility, or his or her professional designee, the person  
33 presents a likelihood of serious harm to himself or herself or others,  
34 or is gravely disabled. A person who has been detained for seventy-two  
35 hours shall no later than the end of such period be released, unless  
36 referred for further care on a voluntary basis, or detained pursuant to  
37 court order for further treatment as provided in this chapter.

1 If, after examination and evaluation, the licensed physician and  
2 mental health professional determine that the initial needs of the  
3 person would be better served by placement in a chemical dependency  
4 treatment facility, then the person shall be referred to an approved  
5 treatment program defined under RCW 70.96A.020.

6 An evaluation and treatment center admitting any person pursuant to  
7 this chapter whose physical condition reveals the need for  
8 hospitalization shall assure that such person is transferred to an  
9 appropriate hospital for treatment. Notice of such fact shall be given  
10 to the court, the designated attorney, and the designated county mental  
11 health professional and the court shall order such continuance in  
12 proceedings under this chapter as may be necessary, but in no event may  
13 this continuance be more than fourteen days.

14 **Sec. 748.** RCW 71.24.025 and 1991 c 306 s 2 are each amended to  
15 read as follows:

16 Unless the context clearly requires otherwise, the definitions in  
17 this section apply throughout this chapter.

18 (1) "Acutely mentally ill" means a condition which is limited to a  
19 short-term severe crisis episode of:

20 (a) A mental disorder as defined in RCW 71.05.020(2) or, in the  
21 case of a child, as defined in RCW 71.34.020(12);

22 (b) Being gravely disabled as defined in RCW 71.05.020(1) or, in  
23 the case of a child, as defined in RCW 71.34.020(8); or

24 (c) Presenting a likelihood of serious harm as defined in RCW  
25 71.05.020(3) or, in the case of a child, as defined in RCW  
26 71.34.020(11).

27 (2) "Available resources" means those funds which shall be  
28 appropriated under this chapter by the legislature during any biennium  
29 for the purpose of providing community mental health programs under RCW  
30 71.24.045. When regional support networks are established or after  
31 July 1, 1995, "available resources" means federal funds, except those  
32 provided according to Title XIX of the Social Security Act, and state  
33 funds appropriated under this chapter or chapter 71.05 RCW by the  
34 legislature during any biennium for the purpose of providing  
35 residential services, resource management services, community support  
36 services, and other mental health services. This does not include  
37 funds appropriated for the purpose of operating and administering the

1 state psychiatric hospitals, except as negotiated according to RCW  
2 71.24.300(1)(d).

3 (3) "Licensed service provider" means an entity licensed according  
4 to this chapter or chapter 71.05 RCW that meets state minimum standards  
5 or individuals licensed under chapter 18.57, 18.71, 18.83, or (~~18.88~~  
6 RCW)) 18.-- RCW (sections 401 through 431 of this act), as it applies  
7 to registered nurses and advanced registered nurse practitioners.

8 (4) "Child" means a person under the age of eighteen years.

9 (5) "Chronically mentally ill adult" means an adult who has a  
10 mental disorder and meets at least one of the following criteria:

11 (a) Has undergone two or more episodes of hospital care for a  
12 mental disorder within the preceding two years; or

13 (b) Has experienced a continuous psychiatric hospitalization or  
14 residential treatment exceeding six months' duration within the  
15 preceding year; or

16 (c) Has been unable to engage in any substantial gainful activity  
17 by reason of any mental disorder which has lasted for a continuous  
18 period of not less than twelve months. "Substantial gainful activity"  
19 shall be defined by the department by rule consistent with Public Law  
20 92-603, as amended.

21 (6) "Severely emotionally disturbed child" means an infant or child  
22 who has been determined by the regional support network to be  
23 experiencing a mental disorder as defined in chapter 71.34 RCW,  
24 including those mental disorders that result in a behavioral or conduct  
25 disorder, that is clearly interfering with the child's functioning in  
26 family or school or with peers and who meets at least one of the  
27 following criteria:

28 (a) Has undergone inpatient treatment or placement outside of the  
29 home related to a mental disorder within the last two years;

30 (b) Has undergone involuntary treatment under chapter 71.34 RCW  
31 within the last two years;

32 (c) Is currently served by at least one of the following child-  
33 serving systems: Juvenile justice, child-protection/welfare, special  
34 education, or developmental disabilities;

35 (d) Is at risk of escalating maladjustment due to:

36 (i) Chronic family dysfunction involving a mentally ill or  
37 inadequate caretaker;

38 (ii) Changes in custodial adult;

1 (iii) Going to, residing in, or returning from any placement  
2 outside of the home, for example, psychiatric hospital, short-term  
3 inpatient, residential treatment, group or foster home, or a  
4 correctional facility;

5 (iv) Subject to repeated physical abuse or neglect;

6 (v) Drug or alcohol abuse; or

7 (vi) Homelessness.

8 (7) "Community mental health program" means all mental health  
9 services established by a county authority. After July 1, 1995, or  
10 when the regional support networks are established, "community mental  
11 health program" means all activities or programs using available  
12 resources.

13 (8) "Community support services" means services for acutely  
14 mentally ill persons, chronically mentally ill adults, and severely  
15 emotionally disturbed children and includes: (a) Discharge planning  
16 for clients leaving state mental hospitals, other acute care inpatient  
17 facilities, inpatient psychiatric facilities for persons under twenty-  
18 one years of age, and other children's mental health residential  
19 treatment facilities; (b) sufficient contacts with clients, families,  
20 schools, or significant others to provide for an effective program of  
21 community maintenance; and (c) medication monitoring. After July 1,  
22 1995, or when regional support networks are established, for adults and  
23 children "community support services" means services authorized,  
24 planned, and coordinated through resource management services  
25 including, at least, assessment, diagnosis, emergency crisis  
26 intervention available twenty-four hours, seven days a week,  
27 prescreening determinations for mentally ill persons being considered  
28 for placement in nursing homes as required by federal law, screening  
29 for patients being considered for admission to residential services,  
30 diagnosis and treatment for acutely mentally ill and severely  
31 emotionally disturbed children discovered under screening through the  
32 federal Title XIX early and periodic screening, diagnosis, and  
33 treatment program, investigation, legal, and other nonresidential  
34 services under chapter 71.05 RCW, case management services, psychiatric  
35 treatment including medication supervision, counseling, psychotherapy,  
36 assuring transfer of relevant patient information between service  
37 providers, other services determined by regional support networks, and  
38 maintenance of a patient tracking system for chronically mentally ill  
39 adults and severely emotionally disturbed children.

1 (9) "County authority" means the board of county commissioners,  
2 county council, or county executive having authority to establish a  
3 community mental health program, or two or more of the county  
4 authorities specified in this subsection which have entered into an  
5 agreement to provide a community mental health program.

6 (10) "Department" means the department of social and health  
7 services.

8 (11) "Mental health services" means community services pursuant to  
9 RCW 71.24.035(5)(b) and other services provided by the state for the  
10 mentally ill. When regional support networks are established, or after  
11 July 1, 1995, "mental health services" shall include all services  
12 provided by regional support networks.

13 (12) "Mentally ill persons" and "the mentally ill" mean persons and  
14 conditions defined in subsections (1), (5), (6), and (16) of this  
15 section.

16 (13) "Regional support network" means a county authority or group  
17 of county authorities recognized by the secretary that enter into joint  
18 operating agreements to contract with the secretary pursuant to this  
19 chapter.

20 (14) "Residential services" means a facility or distinct part  
21 thereof which provides food and shelter, and may include treatment  
22 services.

23 When regional support networks are established, or after July 1,  
24 1995, for adults and children "residential services" means a complete  
25 range of residences and supports authorized by resource management  
26 services and which may involve a facility, a distinct part thereof, or  
27 services which support community living, for acutely mentally ill  
28 persons, chronically mentally ill adults, severely emotionally  
29 disturbed children, or seriously disturbed adults determined by the  
30 regional support network to be at risk of becoming acutely or  
31 chronically mentally ill. The services shall include at least  
32 evaluation and treatment services as defined in chapter 71.05 RCW,  
33 acute crisis respite care, long-term adaptive and rehabilitative care,  
34 and supervised and supported living services, and shall also include  
35 any residential services developed to service mentally ill persons in  
36 nursing homes. Residential services for children in out-of-home  
37 placements related to their mental disorder shall not include the costs  
38 of food and shelter, except for children's long-term residential  
39 facilities existing prior to January 1, 1991.



1 (15) "Resource management services" mean the planning,  
2 coordination, and authorization of residential services and community  
3 support services administered pursuant to an individual service plan  
4 for acutely mentally ill adults and children, chronically mentally ill  
5 adults, severely emotionally disturbed children, or seriously disturbed  
6 adults determined by the regional support network at their sole  
7 discretion to be at risk of becoming acutely or chronically mentally  
8 ill. Such planning, coordination, and authorization shall include  
9 mental health screening for children eligible under the federal Title  
10 XIX early and periodic screening, diagnosis, and treatment program.  
11 Resource management services include seven day a week, twenty-four hour  
12 a day availability of information regarding mentally ill adults' and  
13 children's enrollment in services and their individual service plan to  
14 county-designated mental health professionals, evaluation and treatment  
15 facilities, and others as determined by the regional support network.

16 (16) "Seriously disturbed person" means a person who:

17 (a) Is gravely disabled or presents a likelihood of serious harm to  
18 oneself or others as a result of a mental disorder as defined in  
19 chapter 71.05 RCW;

20 (b) Has been on conditional release status at some time during the  
21 preceding two years from an evaluation and treatment facility or a  
22 state mental health hospital;

23 (c) Has a mental disorder which causes major impairment in several  
24 areas of daily living;

25 (d) Exhibits suicidal preoccupation or attempts; or

26 (e) Is a child diagnosed by a mental health professional, as  
27 defined in RCW 71.05.020, as experiencing a mental disorder which is  
28 clearly interfering with the child's functioning in family or school or  
29 with peers or is clearly interfering with the child's personality  
30 development and learning.

31 (17) "Secretary" means the secretary of social and health services.

32 (18) "State minimum standards" means: (a) Minimum requirements for  
33 delivery of mental health services as established by departmental rules  
34 and necessary to implement this chapter, including but not limited to  
35 licensing service providers and services; (b) minimum service  
36 requirements for licensed service providers for the provision of mental  
37 health services as established by departmental rules pursuant to  
38 chapter 34.05 RCW as necessary to implement this chapter, including,  
39 but not limited to: Qualifications for staff providing services

1 directly to mentally ill persons; the intended result of each service;  
2 and the rights and responsibilities of persons receiving mental health  
3 services pursuant to this chapter; (c) minimum requirements for  
4 residential services as established by the department in rule based on  
5 clients' functional abilities and not solely on their diagnoses,  
6 limited to health and safety, staff qualifications, and program  
7 outcomes. Minimum requirements for residential services are those  
8 developed in collaboration with consumers, families, counties,  
9 regulators, and residential providers serving the mentally ill.  
10 Minimum requirements encourage the development of broad-range  
11 residential programs, including integrated housing and cross-systems  
12 programs where appropriate, and do not unnecessarily restrict  
13 programming flexibility; and (d) minimum standards for community  
14 support services and resource management services, including at least  
15 qualifications for resource management services, client tracking  
16 systems, and the transfer of patient information between service  
17 providers.

18       **Sec. 749.** RCW 74.09.290 and 1990 c 100 s 5 are each amended to  
19 read as follows:

20       The secretary of the department of social and health services or  
21 his authorized representative shall have the authority to:

22       (1) Conduct audits and investigations of providers of medical and  
23 other services furnished pursuant to this chapter, except that the  
24 Washington state medical ((disciplinary board)) quality assurance  
25 commission shall generally serve in an advisory capacity to the  
26 secretary in the conduct of audits or investigations of physicians.  
27 Any overpayment discovered as a result of an audit of a provider under  
28 this authority shall be offset by any underpayments discovered in that  
29 same audit sample. In order to determine the provider's actual, usual,  
30 customary, or prevailing charges, the secretary may examine such random  
31 representative records as necessary to show accounts billed and  
32 accounts received except that in the conduct of such examinations,  
33 patient names, other than public assistance applicants or recipients,  
34 shall not be noted, copied, or otherwise made available to the  
35 department. In order to verify costs incurred by the department for  
36 treatment of public assistance applicants or recipients, the secretary  
37 may examine patient records or portions thereof in connection with  
38 services to such applicants or recipients rendered by a health care

1 provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200,  
2 18.83.110, or any other statute which may make or purport to make such  
3 records privileged or confidential: PROVIDED, That no original patient  
4 records shall be removed from the premises of the health care provider,  
5 and that the disclosure of any records or information by the department  
6 of social and health services is prohibited and shall be punishable as  
7 a class C felony according to chapter 9A.20 RCW, unless such disclosure  
8 is directly connected to the official purpose for which the records or  
9 information were obtained: PROVIDED FURTHER, That the disclosure of  
10 patient information as required under this section shall not subject  
11 any physician or other health services provider to any liability for  
12 breach of any confidential relationship between the provider and the  
13 patient, but no evidence resulting from such disclosure may be used in  
14 any civil, administrative, or criminal proceeding against the patient  
15 unless a waiver of the applicable evidentiary privilege is obtained:  
16 PROVIDED FURTHER, That the secretary shall destroy all copies of  
17 patient medical records in their possession upon completion of the  
18 audit, investigation or proceedings;

19 (2) Approve or deny applications to participate as a provider of  
20 services furnished pursuant to this chapter;

21 (3) Terminate or suspend eligibility to participate as a provider  
22 of services furnished pursuant to this chapter; and

23 (4) Adopt, promulgate, amend, and (~~repeal~~) repeal administrative  
24 rules (~~and regulations~~), in accordance with the Administrative  
25 Procedure Act, chapter 34.05 RCW, to carry out the policies and  
26 purposes of RCW 74.09.200 through 74.09.290.

27 **Sec. 750.** RCW 74.42.010 and 1993 c 508 s 4 are each amended to  
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section apply throughout this chapter.

31 (1) "Department" means the department of social and health services  
32 and the department's employees.

33 (2) "Facility" refers to a nursing home as defined in RCW  
34 18.51.010.

35 (3) "Licensed practical nurse" means a person licensed to practice  
36 practical nursing under chapter (~~18.78~~) 18.-- RCW (sections 401  
37 through 431 of this act).

1 (4) "Medicaid" means Title XIX of the Social Security Act enacted  
2 by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79  
3 Stat. 343), as amended.

4 (5) "Nursing care" means that care provided by a registered nurse,  
5 an advanced registered nurse practitioner, a licensed practical nurse,  
6 or a nursing assistant in the regular performance of their duties.

7 (6) "Qualified therapist" means:

8 (a) An activities specialist who has specialized education,  
9 training, or experience specified by the department.

10 (b) An audiologist who is eligible for a certificate of clinical  
11 competence in audiology or who has the equivalent education and  
12 clinical experience.

13 (c) A mental health professional as defined in chapter 71.05 RCW.

14 (d) A mental retardation professional who is a qualified therapist  
15 or a therapist approved by the department and has specialized training  
16 or one year experience in treating or working with the mentally  
17 retarded or developmentally disabled.

18 (e) An occupational therapist who is a graduate of a program in  
19 occupational therapy or who has equivalent education or training.

20 (f) A physical therapist as defined in chapter 18.74 RCW.

21 (g) A social worker who is a graduate of a school of social work.

22 (h) A speech pathologist who is eligible for a certificate of  
23 clinical competence in speech pathology or who has equivalent education  
24 and clinical experience.

25 (7) "Registered nurse" means a person (~~((practicing))~~) licensed to  
26 practice registered nursing under chapter (~~((18-88))~~) 18.-- RCW (sections  
27 401 through 431 of this act).

28 (8) "Resident" means an individual residing in a nursing home, as  
29 defined in RCW 18.51.010.

30 (9) "Physician(~~((s))~~) assistant" means a person practicing pursuant  
31 to chapters 18.57A and 18.71A RCW.

32 (10) "Nurse practitioner" means a person (~~((practicing such expanded~~  
33 ~~acts of nursing as are authorized by the board of nursing pursuant to~~  
34 ~~RCW 18-88-030))~~ licensed to practice advanced registered nursing under  
35 chapter 18.-- RCW (sections 401 through 431 of this act).

36 **Sec. 751.** RCW 74.42.230 and 1982 c 120 s 2 are each amended to  
37 read as follows:

1 (1) The resident's attending or staff physician or authorized  
2 practitioner approved by the attending physician shall order all  
3 medications for the resident. The order may be oral or written and  
4 shall be limited by time. An "authorized practitioner," as used in  
5 this section, is a registered nurse under chapter ~~((18.88))~~ 18.-- RCW  
6 (sections 401 through 431 of this act) when authorized by the ~~((board~~  
7 ~~of))~~ nursing care quality assurance commission, an osteopathic  
8 physician~~((s))~~ assistant under chapter 18.57A RCW when authorized by  
9 the committee of osteopathic examiners, or a physician~~((s))~~ assistant  
10 under chapter 18.71A RCW when authorized by the ~~((board of))~~ medical  
11 ~~((examiners))~~ quality assurance commission.

12 (2) An oral order shall be given only to a licensed nurse,  
13 pharmacist, or another physician. The oral order shall be recorded and  
14 signed immediately by the person receiving the order. The attending  
15 physician shall sign the record of the oral order in a manner  
16 consistent with good medical practice.

17 **Sec. 752.** RCW 74.42.240 and 1989 c 372 s 5 are each amended to  
18 read as follows:

19 (1) No staff member may administer any medication to a resident  
20 unless the staff member is licensed to administer medication:  
21 PROVIDED, That nothing herein shall be construed as prohibiting  
22 graduate nurses or student nurses from administering medications when  
23 permitted to do so under chapter ~~((18.88 or 18.78))~~ 18.-- RCW (sections  
24 401 through 431 of this act) and rules adopted thereunder.

25 (2) The facility may only allow a resident to give himself or  
26 herself medication with the attending physician's permission.

27 (3) Medication shall only be administered to or used by the  
28 resident for whom it is ordered.

29 **Sec. 753.** RCW 74.42.380 and 1989 c 372 s 6 are each amended to  
30 read as follows:

31 (1) The facility shall have a director of nursing services. The  
32 director of nursing services shall be a registered nurse or an advanced  
33 registered nurse practitioner.

34 (2) The director of nursing services is responsible for:

35 (a) Coordinating the plan of care for each resident;

36 (b) Permitting only licensed personnel to administer medications:  
37 PROVIDED, That nothing herein shall be construed as prohibiting

1 graduate nurses or student nurses from administering medications when  
2 permitted to do so under chapter (~~(18.88 or 18.78)~~) 18.-- RCW (sections  
3 401 through 431 of this act) and rules (~~((promulgated pursuant thereto))~~)  
4 adopted under it: PROVIDED FURTHER, That nothing herein shall be  
5 construed as prohibiting persons certified under chapter 18.135 RCW  
6 from practicing pursuant to the delegation and supervision requirements  
7 of chapter 18.135 RCW and rules (~~((promulgated pursuant thereto))~~)  
8 adopted under it; and

9 (c) Insuring that the licensed practical nurses (~~((comply with~~  
10 ~~chapter 18.78 RCW,))~~) and the registered nurses comply with chapter  
11 (~~(18.88)~~) 18.-- RCW (sections 401 through 431 of this act), and persons  
12 certified under chapter 18.135 RCW comply with the provisions of that  
13 chapter and rules (~~((promulgated pursuant thereto))~~) adopted under it.

#### 14 **DISABILITY ACCOMMODATION REVOLVING FUND ADVISORY REVIEW BOARD**

15 **Sec. 801.** RCW 41.04.395 and 1987 c 9 s 2 are each amended to read  
16 as follows:

17 (1) The disability accommodation revolving fund is created in the  
18 custody of the state treasurer. Disbursements from the fund shall be  
19 on authorization of the director of the department of personnel or the  
20 director's designee. The fund is subject to the allotment procedure  
21 provided under chapter 43.88 RCW, but no appropriation is required for  
22 disbursements. The fund shall be used exclusively by state agencies to  
23 accommodate the unanticipated job site or equipment needs of persons of  
24 disability in state employ.

25 (2) The director of the department of personnel shall (~~((appoint an~~  
26 ~~advisory review board to review and approve))~~) consult with the  
27 governor's committee on disability issues and employment regarding  
28 requests for disbursements from the disability accommodation revolving  
29 fund. The (~~((review board))~~) department shall establish application  
30 procedures, adopt criteria, and provide technical assistance to users  
31 of the fund.

32 (3) Agencies that receive moneys from the disability accommodation  
33 revolving fund shall return to the fund the amount received from the  
34 fund by no later than the end of the first month of the following  
35 fiscal biennium.

#### 36 **MOTOR VEHICLE ADVISORY COMMITTEE**

1       **Sec. 802.** RCW 43.19.558 and 1989 c 57 s 5 are each amended to read  
2 as follows:

3       The motor transport account shall be used to pay the costs of  
4 carrying out the programs provided for in RCW 43.19.550 through  
5 43.19.558, unless otherwise specified by law. The director of general  
6 administration may recover the costs of the programs by billing  
7 agencies that own and operate passenger motor vehicles on the basis of  
8 a per vehicle charge. The director of general administration, after  
9 consultation with affected state agencies (~~and recommendation of the~~  
10 ~~motor vehicle advisory committee~~), shall establish the rates. All  
11 rates shall be approved by the director of financial management. The  
12 proceeds generated by these charges shall be used solely to carry out  
13 RCW 43.19.550 through 43.19.558.

14       **Sec. 803.** RCW 43.19.554 and 1990 c 75 s 1 are each amended to read  
15 as follows:

16       (1) To carry out the purposes of RCW 43.19.550 through 43.19.558  
17 and 46.08.065, the director of general administration has the following  
18 powers and duties:

19       (a) To develop and implement a state-wide information system to  
20 collect, analyze, and disseminate data on the acquisition, operation,  
21 management, maintenance, repair, disposal, and replacement of all  
22 state-owned passenger motor vehicles. State agencies shall provide the  
23 department with such data as is necessary to implement and maintain the  
24 system. The department shall provide state agencies with information  
25 and reports designed to assist them in achieving efficient and cost-  
26 effective management of their passenger motor vehicle operations.

27       (b) To survey state agencies to identify the location, ownership,  
28 and condition of all state-owned fuel storage tanks.

29       (c) In cooperation with the department of ecology and other public  
30 agencies, to prepare a plan and funding proposal for the inspection and  
31 repair or replacement of state-owned fuel storage tanks, and for the  
32 clean-up of fuel storage sites where leakage has occurred. The plan  
33 and funding proposal shall be submitted to the governor no later than  
34 December 1, 1989.

35       (d) To develop and implement a state-wide motor vehicle fuel  
36 purchase, distribution, and accounting system to be used by all state  
37 agencies and their employees. The director may exempt agencies from

1 participation in the system if the director determines that  
2 participation interferes with the statutory duties of the agency.

3 (e) To establish minimum standards and requirements for the content  
4 and frequency of safe driving instruction for state employees operating  
5 state-owned passenger motor vehicles, which shall include consideration  
6 of employee driving records. In carrying out this requirement, the  
7 department shall consult with other agencies that have expertise in  
8 this area.

9 (f) To develop a schedule, after consultation with ((~~the state~~  
10 ~~motor vehicle advisory committee and~~)) affected state agencies, for  
11 state employees to participate in safe driving instruction.

12 (g) To require all state employees to provide proof of a driver's  
13 license recognized as valid under Washington state law prior to  
14 operating a state-owned passenger vehicle.

15 (h) To develop standards for the efficient and economical  
16 replacement of all categories of passenger motor vehicles used by state  
17 agencies and provide those standards to state agencies and the office  
18 of financial management.

19 (i) To develop and implement a uniform system and standards to be  
20 used for the marking of passenger motor vehicles as state-owned  
21 vehicles as provided for in RCW 46.08.065. The system shall be  
22 designed to enhance the resale value of passenger motor vehicles, yet  
23 ensure that the vehicles are clearly identified as property of the  
24 state.

25 (j) To develop and implement other programs to improve the  
26 performance, efficiency, and cost-effectiveness of passenger motor  
27 vehicles owned and operated by state agencies.

28 (k) To consult with state agencies and institutions of higher  
29 education in carrying out RCW 43.19.550 through 43.19.558.

30 (2) The director shall establish an operational unit within the  
31 department to carry out subsection (1) of this section. The director  
32 shall employ such personnel as are necessary to carry out RCW 43.19.550  
33 through 43.19.558. Not more than three employees within the unit may  
34 be exempt from chapter 41.06 RCW.

35 (3) No later than December 31, 1992, the director shall report to  
36 the governor and appropriate standing committees of the legislature on  
37 the implementation of programs prescribed by this section, any cost  
38 savings and efficiencies realized by their implementation, and  
39 recommendations for statutory changes.







1 members, but may be reimbursed for their travel expenses pursuant to  
2 RCW ~~43.03.050~~ and ~~43.03.060~~.

3 ~~(4))~~) The secretary may contract with third parties for services  
4 necessary to carry out activities to implement this chapter where this  
5 will promote economy, avoid duplication of effort, and make the best  
6 use of available expertise.

7 ~~((5))~~) (4) The secretary may apply for, receive, and accept gifts  
8 and other payments, including property and service, from any  
9 governmental or other public or private entity or person, and may make  
10 arrangements as to the use of these receipts, including the undertaking  
11 of special studies and other projects related to the delivery of health  
12 care in rural areas.

13 ~~((6))~~) (5) In designing and implementing the project the secretary  
14 shall consider the report of the Washington rural health care  
15 commission established under chapter 207, Laws of 1988. Nothing in  
16 this chapter requires the secretary to follow any specific  
17 recommendation contained in that report except as it may also be  
18 included in this chapter.

19

#### FISHERIES ADVISORY REVIEW BOARDS

20 **Sec. 807.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 240 s 27 are  
21 each reenacted and amended to read as follows:

22 (1) The director shall appoint three-member advisory review boards  
23 to hear cases as provided in RCW 75.30.060. Members shall be from:

24 ~~(a) ((The salmon charter boat fishing industry in cases involving  
25 salmon charter licenses or angler permits;~~

26 ~~(b) The commercial salmon fishing industry in cases involving  
27 commercial salmon fishery licenses;~~

28 ~~(e))~~) The commercial crab fishing industry in cases involving  
29 dungeness crab--Puget Sound fishery licenses;

30 ~~((d))~~) (b) The commercial herring fishery in cases involving  
31 herring fishery licenses;

32 ~~((e) The commercial Puget Sound whiting fishery in cases involving  
33 whiting--Puget Sound fishery licenses;~~

34 ~~(f))~~) (c) The commercial sea urchin fishery in cases involving sea  
35 urchin dive fishery licenses;

36 ~~((g))~~) (d) The commercial sea cucumber fishery in cases involving  
37 sea cucumber dive fishery licenses; and



1 same thing when only one underground reservoir is involved; however,  
2 "field," unlike "pool," may relate to two or more pools.

3 (7) "Gas" means all natural gas, all gaseous substances, and all  
4 other fluid or gaseous hydrocarbons not defined as oil in subsection  
5 (12) of this section, including but not limited to wet gas, dry gas,  
6 residue gas, condensate, and distillate, as those terms are generally  
7 understood in the petroleum industry.

8 (8) "Illegal oil" or "illegal gas" means oil or gas that has been  
9 produced from any well within the state in violation of this chapter or  
10 any rule or order of the (~~committee~~) department.

11 (9) "Illegal product" means any product derived in whole or part  
12 from illegal oil or illegal gas.

13 (10) "Interested person" means a person with an ownership, basic  
14 royalty, or leasehold interest in oil or gas within an existing or  
15 proposed development unit or unitized pool.

16 (11) "Lessee" means the lessee under an oil and gas lease, or the  
17 owner of any land or mineral rights who has the right to conduct or  
18 carry on any oil and gas development, exploration and operation  
19 thereon, or any person so operating for himself, herself, or others.

20 (12) "Oil" means crude petroleum, oil, and all hydrocarbons,  
21 regardless of gravity, that are in the liquid phase in the original  
22 reservoir conditions and are produced and recovered at the wellhead in  
23 liquid form.

24 (13) "Operator" means the person who operates a well or unit or who  
25 has been designated or accepted by the owners to operate the well or  
26 unit, and who is responsible for compliance with the (~~committee's~~)  
27 department's rules and policies.

28 (14) "Owner" means the person who has the right to develop,  
29 operate, drill into, and produce from a pool and to appropriate the oil  
30 or gas that he or she produces therefrom, either for that person or for  
31 that person and others.

32 (15) "Person" means any natural person, corporation, association,  
33 partnership, receiver, trustee, executor, administrator, guardian,  
34 fiduciary, or representative of any kind and includes any governmental  
35 or political subdivision or any agency thereof.

36 (16) "Pool" means an underground reservoir containing a common  
37 accumulation of oil or gas, or both. Each zone of a structure which is  
38 completely separated from any other zone in the same structure such  
39 that the accumulations of oil or gas are not common with each other is

1 considered a separate pool and is covered by the term "pool" as used in  
2 this chapter.

3 (17) "Pooling" means the integration or combination of two or more  
4 tracts into an area sufficient to constitute a development unit of the  
5 size for one well as prescribed by the ((committee)) department.

6 (18) "Product" means any commodity made from oil or gas.

7 (19) "Protect correlative rights" means that the action or  
8 regulation by the ((committee)) department should afford a reasonable  
9 opportunity to each person entitled thereto to recover or receive  
10 without causing waste his or her fair and reasonable share of the oil  
11 and gas in this tract or tracts or its equivalent.

12 (20) "Royalty" means a right to or interest in oil or gas or the  
13 value from or attributable to production, other than the right or  
14 interest of a lessee, owner, or operator, as defined herein. Royalty  
15 includes, but is not limited to the basic royalty in a lease,  
16 overriding royalty, and production payments. Any such interest may be  
17 referred to in this chapter as "royalty" or "royalty interest." As  
18 used in this chapter "basic royalty" means the royalty reserved in a  
19 lease. "Royalty owner" means a person who owns a royalty interest.

20 (21) "Supervisor" means the state oil and gas supervisor.

21 (22) "Unitization" means the operation of all or part of a field or  
22 reservoir as a single entity for operating purposes.

23 (23) "Waste" in addition to its ordinary meaning, means and  
24 includes:

25 (a) "Physical waste" as that term is generally understood in the  
26 petroleum industry;

27 (b) The inefficient, excessive, or improper use of, or unnecessary  
28 dissipation of, reservoir energy, and the locating, spacing, drilling,  
29 equipping, operating, or producing of any oil or gas well in a manner  
30 which results or is probable to result in reducing the quantity of oil  
31 or gas to be recovered from any pool in this state under operations  
32 conducted in accordance with prudent and proper practices or that  
33 causes or tends to cause unnecessary wells to be drilled;

34 (c) The inefficient above-ground storage of oil, and the locating,  
35 spacing, drilling, equipping, operating, or producing of any oil or gas  
36 well in a manner causing or tending to cause unnecessary or excessive  
37 surface loss or destruction of oil or gas;

38 (d) The production of oil or gas in such manner as to cause  
39 unnecessary water channeling, or coning;

- 1 (e) The operation of an oil well with an inefficient gas-oil ratio;  
2 (f) The drowning with water of any pool or part thereof capable of  
3 producing oil or gas, except insofar as and to the extent authorized by  
4 the ((committee)) department;
- 5 (g) Underground waste;
- 6 (h) The creation of unnecessary fire hazards;
- 7 (i) The escape into the open air, from a well producing oil or gas,  
8 of gas in excess of the amount which is reasonably necessary in the  
9 efficient development or production of the well;
- 10 (j) The use of gas for the manufacture of carbon black, except as  
11 provided in RCW 78.52.140;
- 12 (k) Production of oil and gas in excess of the reasonable market  
13 demand;
- 14 (l) The flaring of gas from gas wells except that which is  
15 necessary for the drilling, completing, or testing of the well; and
- 16 (m) The unreasonable damage to natural resources including but not  
17 limited to the destruction of the surface, soils, wildlife, fish, or  
18 aquatic life from or by oil and gas operations.

19 **Sec. 810.** RCW 78.52.025 and 1983 c 253 s 3 are each amended to  
20 read as follows:

21 The ((committee)) department shall hold hearings or meetings at  
22 such times and places as may be found by the ((committee)) department  
23 to be necessary to carry out its duties. The ((committee)) department  
24 may establish its own rules for the conduct of public hearings or  
25 meetings consistent with other applicable law.

26 **Sec. 811.** RCW 78.52.030 and 1951 c 146 s 6 are each amended to  
27 read as follows:

28 The ~~((committee shall have the authority and it shall be its duty~~  
29 ~~to)) department shall employ all personnel necessary to carry out the~~  
30 provisions of this chapter.

31 **Sec. 812.** RCW 78.52.031 and 1983 c 253 s 5 are each amended to  
32 read as follows:

33 The ~~((committee shall have the power to)) department may subpoena~~  
34 witnesses, ~~((to))~~ administer oaths, and ~~((to))~~ require the production  
35 of records, books, and documents for examination at any hearing or  
36 investigation conducted by it. No person shall be excused from

1 attending and testifying, or from producing books, papers, and records  
2 before the ((committee)) department or a court, or from obedience to  
3 the subpoena of the ((committee)) department or a court, on the ground  
4 or for the reason that the testimony or evidence, documentary or  
5 otherwise, required of ((him)) the person may tend to incriminate  
6 ((him)) the person or subject ((him)) the person to a penalty or  
7 forfeiture: PROVIDED, That nothing herein contained shall be construed  
8 as requiring any person to produce any books, papers, or records, or to  
9 testify in response to any inquiry not pertinent to some question  
10 lawfully before ((such committee)) the department or court for  
11 determination. No person shall be subjected to criminal prosecution or  
12 to any penalty or forfeiture for or on account of any transaction,  
13 matter, or thing concerning which, in spite of his or her objection, he  
14 or she may be required to testify or produce evidence, documentary or  
15 otherwise before the ((committee)) department or court, or in obedience  
16 to its subpoena: PROVIDED, HOWEVER, That no person testifying shall be  
17 exempt from prosecution and punishment for perjury committed in so  
18 testifying.

19 **Sec. 813.** RCW 78.52.032 and 1983 c 253 s 10 are each amended to  
20 read as follows:

21 In addition to the powers and authority, either express or implied,  
22 granted to the ((Washington oil and gas conservation committee))  
23 department by virtue of the laws of this state, the ((committee))  
24 department may, in prescribing its rules of order or procedure in  
25 connection with hearings or other proceedings before the ((committee))  
26 department, provide for the appointment of one or more examiners to  
27 conduct a hearing or hearings with respect to any matter properly  
28 coming before the ((committee)) department and to make reports and  
29 recommendations to the ((committee)) department with respect thereto.  
30 Any ((member)) employee of the ((committee, or its staff)) department  
31 or any other person designated by the ((committee)) commissioner of  
32 public lands, or the supervisor when this power is so delegated, may  
33 serve as an examiner. The ((committee)) department shall adopt rules  
34 governing hearings to be conducted before examiners.

35 **Sec. 814.** RCW 78.52.033 and 1951 c 146 s 8 are each amended to  
36 read as follows:



1 In case of failure or refusal on the part of any person to comply  
2 with a subpoena issued by the ((committee)) department or in case of  
3 the refusal of any witness to testify as to any matter regarding which  
4 ((he)) the witness may be interrogated, any superior court in the  
5 state, upon the application of the ((committee)) department, may compel  
6 ((him)) the person to comply with such subpoena, and to attend before  
7 the ((committee)) department and produce such records, books, and  
8 documents for examination, and to give his or her testimony and shall  
9 have the power to punish for contempt as in the case of disobedience to  
10 a like subpoena issued by the court, or for refusal to testify therein.

11 **Sec. 815.** RCW 78.52.035 and 1951 c 146 s 9 are each amended to  
12 read as follows:

13 The attorney general shall be the attorney for the ((committee:  
14 PROVIDED,—That)) department, but in cases of emergency, the  
15 ((committee)) department may call upon the prosecuting attorney of the  
16 county where the action is to be brought, or defended, to represent the  
17 ((committee)) department until such time as the attorney general may  
18 take charge of the litigation.

19 **Sec. 816.** RCW 78.52.037 and 1983 c 253 s 4 are each amended to  
20 read as follows:

21 ((The department of natural resources is the designated agent of  
22 the committee for the purpose of carrying out this chapter. It shall  
23 administer and enforce this chapter consistent with the policies  
24 adopted by the committee, together with all rules and orders which the  
25 committee may adopt and delegate, including but not limited to issuing  
26 permits, orders, enforcement actions, and other actions or decisions  
27 authorized to be made under this chapter.)) The department shall  
28 designate a state oil and gas supervisor who shall be charged with  
29 duties as may be delegated by the department. The department ((of  
30 natural resources)) may designate one or more deputy supervisors and  
31 employ all personnel necessary including the appointment of examiners  
32 as provided in RCW 78.52.032 to carry out this chapter and the rules  
33 and orders of the ((committee)) department.

34 **Sec. 817.** RCW 78.52.040 and 1983 c 253 s 6 are each amended to  
35 read as follows:

1       (~~It shall be the duty of the committee to~~) The department shall  
2 administer and enforce the provisions of this chapter by the adoption  
3 of policies, and all rules, regulations, and orders promulgated  
4 hereunder, and the (~~committee is hereby vested with~~) department has  
5 jurisdiction, power, and authority, over all persons and property,  
6 public and private, necessary to enforce effectively such duty.

7       **Sec. 818.** RCW 78.52.050 and 1983 c 253 s 7 are each amended to  
8 read as follows:

9       The (~~committee shall have authority to~~) department may make such  
10 reasonable rules, regulations, and orders as may be necessary from time  
11 to time for the proper administration and enforcement of this chapter.  
12 Unless otherwise required by law or by this chapter or by rules of  
13 procedure made under this chapter, the (~~committee~~) department may  
14 make such rules, regulations, and orders, after notice, as the basis  
15 therefor. The notice may be given by publication in some newspaper of  
16 general circulation in the state in a manner and form which may be  
17 prescribed by the (~~committee~~) department by general rule. The public  
18 hearing shall be at the time and in the manner and at the place  
19 prescribed by the (~~committee~~) department, and any person having any  
20 interest in the subject matter of the hearing shall be entitled to be  
21 heard. In addition, written notice shall be mailed to all interested  
22 persons who have requested, in writing, notice of (~~committee~~)  
23 department hearings, rulings, policies, and orders. The (~~committee~~)  
24 department shall establish and maintain a mailing list for this  
25 purpose. Substantial compliance with these mailing requirements is  
26 deemed compliance with (~~the provisions herewith~~) this section.

27       **Sec. 819.** RCW 78.52.070 and 1951 c 146 s 12 are each amended to  
28 read as follows:

29       Any interested person shall have the right to have the  
30 (~~committee~~) department call a hearing for the purpose of taking  
31 action with respect to any matter within the jurisdiction of the  
32 (~~committee~~) department by filing a verified written petition  
33 therefor, which shall state in substance the matter and reasons for and  
34 nature of the action requested. Upon receipt of any such request the  
35 (~~committee~~) department, if in its judgment a hearing is warranted and  
36 justifiable, shall promptly call a hearing thereon, and after such  
37 hearing, and with all convenient speed, and in any event within twenty

1 days after the conclusion of such hearing, shall take such action with  
2 regard to the subject matter thereof as it may deem appropriate.

3 **Sec. 820.** RCW 78.52.100 and 1983 c 253 s 8 are each amended to  
4 read as follows:

5 All rules, regulations, policies, and orders of the ((committee))  
6 department, all petitions, copies of all notices and actions with  
7 affidavits of posting, mailing, or publications pertaining thereto, all  
8 findings of fact, and transcripts of all hearings shall be in writing  
9 and shall be entered in full by the ((committee)) department in the  
10 permanent official records of the office of the commissioner of public  
11 lands and shall be open for inspection at all times during reasonable  
12 office hours. A copy of any rule, regulation, policy, order, or other  
13 official records of the ((committee)) department, certified by the  
14 ((~~executive secretary of the committee~~)) commissioner of public lands,  
15 shall be received in evidence in all courts of this state with the same  
16 effect as the original. The ((committee)) department is hereby  
17 required to furnish to any person upon request, copies of all rules,  
18 regulations, policies, orders, and amendments thereof.

19 **Sec. 821.** RCW 78.52.120 and 1983 c 253 s 11 are each amended to  
20 read as follows:

21 Any person desiring or proposing to drill any well in search of oil  
22 or gas, before commencing the drilling of any such well, shall apply to  
23 the ((committee)) department upon such form as the ((committee))  
24 department may prescribe, and shall pay to the state treasurer a fee of  
25 the following amounts for each application:

26 (1) For each well the estimated depth of which is three thousand  
27 five hundred feet or less, two hundred fifty dollars;

28 (2) From three thousand five hundred one feet to seven thousand  
29 feet, five hundred dollars;

30 (3) From seven thousand one feet to twelve thousand feet, seven  
31 hundred fifty dollars; and

32 (4) From twelve thousand one feet and deeper, one thousand dollars.

33 In addition, as pertains to the tract upon which the well is  
34 proposed to be located, the applicant must notify the surface  
35 landowner, the landowner's tenant, and other surface users in the  
36 manner provided by regulations of the ((committee)) department that a  
37 drilling permit has been applied for by furnishing each such surface

1 landowner, tenant, and other users with a copy of the application  
2 concurrent with the filing of the application. Within fifteen days of  
3 receipt of the application, each such surface landowner, the  
4 landowner's tenant, and other surface users have the right to inform  
5 the ~~((committee))~~ department of objections or comments as to the  
6 proposed use of the surface by the applicant, and the ~~((committee))~~  
7 department shall consider the objections or comments.

8 The drilling of any well is prohibited until a permit is given and  
9 such fee has been paid as ~~((herein))~~ provided in this section. The  
10 ~~((committee shall have the authority to))~~ department may prescribe that  
11 the said form indicate the exact location of such well, the name and  
12 address of the owner, operator, contractor, driller, and any other  
13 person responsible for the conduct of drilling operations, the proposed  
14 depth of the well, the elevation of the well above sea level, and such  
15 other relevant and reasonable information as the ~~((committee))~~  
16 department may deem necessary or convenient to effectuate the purposes  
17 of this chapter.

18 The ~~((committee))~~ department shall issue a permit if it finds that  
19 the proposed drilling will be consistent with this chapter, the  
20 rules~~((7))~~ and orders adopted under it, and is not detrimental to the  
21 public interest. The ~~((committee))~~ department shall impose conditions  
22 and restrictions as necessary to protect the public interest and to  
23 ensure compliance with this chapter, and the rules and orders adopted  
24 by the ~~((committee))~~ department. A person shall not apply to drill a  
25 well in search of oil or gas unless that person holds an ownership or  
26 contractual right to locate and operate the drilling operations upon  
27 the proposed drilling site. A person shall not be issued a permit  
28 unless that person prima facie holds an ownership or contractual right  
29 to drill to the proposed depth, or proposed horizon. Proof of prima  
30 facie ownership shall be presented to the ~~((committee))~~ department.

31 **Sec. 822.** RCW 78.52.125 and 1971 ex.s. c 180 s 8 are each amended  
32 to read as follows:

33 Any person desiring or proposing to drill any well in search of oil  
34 or gas, when such drilling would be conducted through or under any  
35 surface waters of the state, shall prepare and submit an environmental  
36 impact statement upon such form as the department of ecology shall  
37 prescribe at least one hundred and twenty days prior to commencing the  
38 drilling of any such well. Within ninety days after receipt of such

1 environmental statement the department of ecology shall prepare and  
2 submit to (~~each member of the committee~~) the department of natural  
3 resources a report examining the potential environmental impact of the  
4 proposed well and recommendations for (~~committee~~) department action  
5 thereon. If after consideration of the report the (~~committee~~)  
6 department determines that the proposed well is likely to have a  
7 substantial environmental impact the drilling permit for such well may  
8 be denied.

9 The (~~committee~~) department shall require sufficient safeguards to  
10 minimize the hazards of pollution of all surface and ground waters of  
11 the state. If safeguards acceptable to the (~~committee~~) department  
12 cannot be provided the drilling permit shall be denied.

13 **Sec. 823.** RCW 78.52.140 and 1951 c 146 s 16 are each amended to  
14 read as follows:

15 The use of gas from a well producing gas only, or from a well which  
16 is primarily a gas well, for the manufacture of carbon black or similar  
17 products predominantly carbon, is declared to constitute waste prima  
18 facie, and such gas well shall not be used for any such purpose unless  
19 it is clearly shown, at a public hearing to be held by the  
20 (~~committee~~) department, on application of the person desiring to use  
21 such gas, that waste would not take place by the use of such gas for  
22 the purpose or purposes applied for, and that gas which would otherwise  
23 be lost is not available for such purpose or purposes, and that the gas  
24 to be used cannot be used for a more beneficial purpose, such as for  
25 light or fuel purposes, except at prohibitive cost, and that it would  
26 be in the public interest to grant such permit. If the (~~committee~~)  
27 department finds that the applicant has clearly shown a right to use  
28 such gas for the purpose or purposes applied for, it shall issue a  
29 permit upon such terms and conditions as may be found necessary in  
30 order to permit the use of the gas, and at the same time require  
31 compliance with the intent of this section.

32 **Sec. 824.** RCW 78.52.150 and 1951 c 146 s 17 are each amended to  
33 read as follows:

34 The (~~committee has authority, and it shall be its duty, to~~)  
35 department shall make such investigations as it may deem proper to  
36 determine whether waste exists or is imminent or whether other facts  
37 exist which justify action by the (~~committee~~) department.

1       **Sec. 825.** RCW 78.52.155 and 1983 c 253 s 9 are each amended to  
2 read as follows:

3       (1) The ~~((committee))~~ department shall make investigations as  
4 necessary to carry out this chapter.

5       (2) The ~~((committee and the))~~ department ~~((, consistent with the~~  
6 ~~committee's policies,))~~ shall require:

7       (a) Identification of ownership of oil or gas wells, producing  
8 leases, tanks, plants, structures, and facilities for the  
9 transportation or refining of oil or gas;

10       (b) The making and filing of well logs, core samples, directional  
11 surveys, and reports on well locations, drilling, and production;

12       (c) The testing of oil and gas wells;

13       (d) The drilling, casing, operating, and plugging of wells in such  
14 a manner as to prevent the escape of oil or gas out of the casings, or  
15 out of one pool into another, the intrusion of water into an oil or gas  
16 pool, and the pollution of freshwater supplies by oil, gas, or  
17 saltwater and to prevent blowouts, cavings, seepages, and fires;

18       (e) The furnishing of adequate security acceptable to the  
19 department, conditioned on the performance of the duty to plug each dry  
20 or abandoned well, the duty to reclaim and clean-up well drilling  
21 sites, the duty to repair wells causing waste, the duty to comply with  
22 all applicable laws and rules adopted by the ~~((committee))~~ department,  
23 orders of the ~~((committee and the))~~ department, all permit conditions,  
24 and this chapter;

25       (f) The operation of wells with efficient gas-oil and water-oil  
26 ratios and may fix these ratios and limit production from wells with  
27 inefficient gas-oil or water-oil ratios;

28       (g) The production of oil and gas from wells be accurately measured  
29 by means and upon standards prescribed by the ~~((committee))~~ department,  
30 and that every person who produces, sells, purchases, acquires, stores,  
31 transports, treats, or processes oil or gas in this state keeps and  
32 maintains for a period of five years within this state complete and  
33 accurate records thereof, which records shall be available for  
34 examination by the ~~((committee))~~ department or its agents at all  
35 reasonable times, and that every person file with the ~~((committee))~~  
36 department such reports as it may prescribe with respect to the oil or  
37 gas; and

38       (h) Compliance with all applicable laws and rules of this state.

1       (3) The (~~committee and the department, consistent with the~~  
2 ~~committee's policies,~~) department shall regulate:

3       (a) The drilling, producing, locating, spacing, and plugging of  
4 wells and all other operations for the production of oil or gas;

5       (b) The physical, mechanical, and chemical treatment of wells, and  
6 the perforation of wells;

7       (c) Operations to increase ultimate recovery such as cycling of  
8 gas, the maintenance of pressure, and the introduction of gas, water,  
9 or other substances into producing formations;

10       (d) Disposal of saltwater and oil field brines;

11       (e) The storage, processing, and treatment of natural gas and oil  
12 produced within this state; and

13       (f) Reclamation and clean-up of all well sites and any areas  
14 directly affected by the drilling, production, operation, and plugging  
15 of oil and gas wells.

16       (4) The (~~committee~~) department may limit and prorate oil and gas  
17 produced in this state and may restrict future production of oil and  
18 gas from any pool in such amounts as will offset and compensate for any  
19 production determined by the (~~committee~~) department to be in excess  
20 of or in violation of "oil allowable" or "gas allowable."

21       (5) The (~~committee~~) department shall classify wells as oil or gas  
22 wells for purposes material to the interpretation or enforcement of  
23 this chapter.

24       (6) The (~~committee and the department, consistent with the~~  
25 ~~committee's policies,~~) department shall regulate oil and gas  
26 exploration and drilling activities so as to prevent or remedy  
27 unreasonable or excessive waste or surface destruction.

28       **Sec. 826.** RCW 78.52.200 and 1983 c 253 s 12 are each amended to  
29 read as follows:

30       When necessary to prevent waste, to avoid the drilling of  
31 unnecessary wells, or to protect correlative rights including those of  
32 royalty owners, the (~~committee~~) department, upon its own motion or  
33 upon application of interested persons, shall establish development  
34 units covering any known pool. Development units shall be of uniform  
35 size and shape for the entire pool unless the (~~committee~~) department  
36 finds that it must make an exception due to geologic, geographic, or  
37 other factors. When necessary, the (~~committee~~) department may divide  
38 any pool into zones and establish development units for each zone,

1 which units may differ in size and shape from those established in any  
2 other zone.

3 **Sec. 827.** RCW 78.52.205 and 1983 c 253 s 13 are each amended to  
4 read as follows:

5 Within sixty days after the discovery of oil or gas in a pool not  
6 then covered by an order of the ((committee)) department, a hearing  
7 shall be held and the ((committee)) department shall issue an order  
8 prescribing development units for the pool. If sufficient geological  
9 or other scientific data from drilling operations or other evidence is  
10 not available to determine the maximum area that can be efficiently and  
11 economically drained by one well, the ((committee)) department may  
12 establish temporary development units to ensure the orderly development  
13 of the pool pending availability of the necessary data. A temporary  
14 order shall continue in force for a period of not more than twenty-four  
15 months at the expiration of which time, or upon the petition of an  
16 affected person, the ((committee)) department shall require the  
17 presentation of such geological, scientific, drilling, or other  
18 evidence as will enable it to determine the proper development units in  
19 the pool. During the interim period between the discovery and the  
20 issuance of the temporary order, permits shall not be issued for the  
21 drilling of direct offsets to a discovery well.

22 **Sec. 828.** RCW 78.52.210 and 1983 c 253 s 14 are each amended to  
23 read as follows:

24 (1) The size and the shape of any development units shall be such  
25 as will result in the efficient and economical development of the pool  
26 as a whole, and the size shall not be smaller than the maximum area  
27 that can be efficiently and economically drained by one well as  
28 determined by competent geological, geophysical, engineering, drilling,  
29 or other scientific testimony, data, and evidence. The ((committee))  
30 department shall fix a development unit of not more than one hundred  
31 sixty acres for any pool deemed by the ((committee)) department to be  
32 an oil reservoir, or of six hundred forty acres for any pool deemed by  
33 the ((committee)) department to be a gas reservoir, plus a ten percent  
34 tolerance in either case to allow for irregular sections. The  
35 ((committee)) department may, at its discretion, after notice and  
36 hearing, establish development units for oil and gas in variance of  
37 these limitations when competent geological, geophysical, engineering,



1 drilling, or other scientific testimony, data, and evidence is  
2 presented and upon a finding that one well can efficiently and  
3 economically drain a larger or smaller area and is justified because of  
4 technical, economic, environmental, or safety considerations.

5 (2) The ((committee)) department may establish development units of  
6 different sizes or shapes for different parts of a pool or may grant  
7 exceptions to the size or shapes of any development unit or units.  
8 Where development units of different sizes or shapes exist in a pool,  
9 the ((committee)) department shall, if necessary, make such adjustments  
10 to the allowable production from the well or wells drilled thereon so  
11 that each operator in each development unit will have a reasonable  
12 opportunity to produce or receive his or her just and equitable share  
13 of the production.

14 **Sec. 829.** RCW 78.52.220 and 1983 c 253 s 15 are each amended to  
15 read as follows:

16 An order establishing development units for a pool shall specify  
17 the size and shape of each area and the location of the permitted well  
18 thereon in accordance with a reasonable uniform spacing plan. Upon  
19 application and after notice and a hearing, if the ((committee))  
20 department finds that a well drilled at the prescribed location would  
21 not produce in paying quantities, or that surface conditions would  
22 substantially add to the burden or hazard of drilling such well, the  
23 ((committee is authorized to)) department may enter an order permitting  
24 the well to be drilled pursuant to permit at a location other than that  
25 prescribed by such development order; however, the ((committee))  
26 department shall include in the order suitable provisions to prevent  
27 the production from the development unit of more than its just and  
28 equitable share of the oil and gas in the pool.

29 **Sec. 830.** RCW 78.52.230 and 1983 c 253 s 16 are each amended to  
30 read as follows:

31 An order establishing development units for a pool shall cover all  
32 lands determined or believed to be underlaid by such pool, and may be  
33 modified by the ((committee)) department from time to time to include  
34 additional areas determined to be underlaid by such pool. When the  
35 ((committee)) department determines that it is necessary for the  
36 prevention of waste, or to avoid the drilling of unnecessary wells, or  
37 to protect correlative rights, an order establishing development units

1 in a pool may be modified by the ((committee)) department to increase  
2 or decrease the size of development units in the pool or to permit the  
3 drilling of additional wells on a reasonably uniform plan in the pool.

4 **Sec. 831.** RCW 78.52.240 and 1983 c 253 s 17 are each amended to  
5 read as follows:

6 When two or more separately-owned tracts are embraced within a  
7 development unit, or when there are separately owned interests in all  
8 or a part of the development unit, then the owners and lessees thereof  
9 may pool their interests for the development and operation of the  
10 development unit. In the absence of this voluntary pooling, the  
11 ((committee)) department, upon the application of any interested  
12 person, shall enter an order pooling all interests, including royalty  
13 interests, in the development unit for the development and operation  
14 thereof. Each such pooling order shall be made after notice and  
15 hearing. The applicant or applicants shall have the burden of proving  
16 that all reasonable efforts have been made to obtain the consent of, or  
17 to reach agreement with, other owners.

18 **Sec. 832.** RCW 78.52.245 and 1983 c 253 s 18 are each amended to  
19 read as follows:

20 A pooling order shall be upon terms and conditions that are fair  
21 and reasonable and that afford to each owner and royalty owner his or  
22 her fair and reasonable share of production. Production shall be  
23 allocated as follows:

24 (1) For the purpose of determining the portions of production owned  
25 by the persons owning interests in the pooled unit, the production  
26 shall be allocated to the respective tracts within the unit in the  
27 proportion that the surface acres in each tract bear to the number of  
28 surface acres included in the entire unit.

29 (2) Notwithstanding subsection (1) of this section, if the  
30 ((committee)) department finds that allocation on a surface acreage  
31 basis does not allocate to each tract its fair share, the ((committee))  
32 department shall allocate the production so that each tract will  
33 receive its fair share.

34 **Sec. 833.** RCW 78.52.250 and 1983 c 253 s 19 are each amended to  
35 read as follows:

1 (1) Each such pooling order shall make provision for the drilling  
2 and operation of a well on the development unit, and for the payment of  
3 the reasonable actual cost thereof by the owners of interests required  
4 to pay such costs in the development unit, plus a reasonable charge for  
5 supervision and storage facilities. Costs associated with production  
6 from the pooled unit shall be allocated in the same manner as is  
7 production in RCW 78.52.245. In the event of any dispute as to such  
8 costs the ((committee)) department shall determine the proper costs.

9 (2) As to each owner who fails or refuses to agree to bear his or  
10 her proportionate share of the costs of the drilling and operation of  
11 the well, the order shall provide for reimbursement of those persons  
12 paying for the drilling and operation of the well of the nonconsenting  
13 owner's share of the costs from, and only from, production from the  
14 unit representing that person's interest, excluding royalty or other  
15 interests not obligated to pay any part of the cost thereof. The  
16 ((committee)) department may provide that the consenting owners shall  
17 own and be entitled to receive all production from the well after  
18 payment of the royalty as provided in the lease, if any, applicable to  
19 each tract or interest, and obligations payable from production, until  
20 the consenting owners have been paid the amount due under the terms of  
21 the pooling order or order settling any dispute.

22 The order shall determine the interest of each owner in the unit  
23 and shall provide that each consenting owner is entitled to receive,  
24 subject to royalty or similar obligations, the share of the production  
25 of the well applicable to the owner's interest in the unit, and, unless  
26 the owner has agreed otherwise, his or her proportionate part of the  
27 nonconsenting owner's share of the production until costs are recovered  
28 as provided in this subsection. Each nonconsenting owner is entitled  
29 to receive, subject to royalty or similar obligations, the share of  
30 production from the well applicable to the owner's interest in the unit  
31 after the consenting owners have recovered from the nonconsenting  
32 owner's share of production the following:

33 (a) In respect to every such well, one hundred percent of the  
34 nonconsenting owner's share of the cost of surface equipment beyond the  
35 wellhead connections, including but not limited to, stock tanks,  
36 separators, treaters, pumping equipment, and piping, plus one hundred  
37 percent of the nonconsenting owner's share of the cost of operation of  
38 the well, commencing with first production and continuing until the  
39 consenting owners have recovered these costs, with the intent that the

1 nonconsenting owner's share of these costs and equipment will be that  
2 interest which would have been chargeable to the nonconsenting owner  
3 had he or she initially agreed to pay his or her share of the costs of  
4 the well from the beginning of the operation;

5 (b) One hundred fifty percent of that portion of the costs and  
6 expenses of staking the location, well site preparation, rights of way,  
7 rigging-up, drilling, reworking, deepening or plugging back, testing,  
8 and completing, after deducting any cash contributions received by the  
9 consenting owners, and also one hundred fifty percent of that portion  
10 of the cost of equipment in the well, up to and including the wellhead  
11 connections; and

12 (c) If there is a dispute regarding the costs, the ((committee))  
13 department shall determine the proper costs and their allocation among  
14 working interest owners after due notice to interested parties and a  
15 hearing on the costs.

16 (3) The operator of a well under a pooling order in which there are  
17 nonconsenting owners shall furnish the nonconsenting owners with  
18 monthly statements of all costs incurred, together with the quantity of  
19 oil or gas produced, and the amount of proceeds realized from the sale  
20 of this production during the preceding month. If and when the  
21 consenting owners recover from a nonconsenting owner's relinquished  
22 interest the amounts provided for in subsection (2) of this section,  
23 the relinquished interest of the nonconsenting owner shall  
24 automatically revert to him or her, and the nonconsenting owner shall  
25 own the same interest in the well and the production from it and be  
26 liable for the further costs of the operation as if he or she had  
27 participated in the initial drilling and operation.

28 (4) A nonconsenting owner of a tract in a development unit which is  
29 not subject to any lease or other contract for the development thereof  
30 for oil and gas shall elect within fifteen days of the issuance of the  
31 pooling order or such further time as the ((committee)) department  
32 shall, in the order, allow:

33 (a) To be treated as a nonconsenting owner as provided in  
34 subsections (2) and (3) of this section and is deemed to have a basic  
35 landowners' royalty of one-eighth, or twelve and one-half percent, of  
36 the production allocated to the tract, unless a higher basic royalty  
37 has been established in the development unit. If a higher royalty has  
38 been established, then the nonconsenting owner of a nonleased tract  
39 shall receive the higher basic royalty. This presumed royalty shall

1 exist only during the time that costs and expenses are being recovered  
2 under subsection (2) of this section, and is intended to assure that  
3 the owner of a nonleased tract receive a basic royalty free of all  
4 costs at all times. Notwithstanding anything herein to the contrary,  
5 the owner shall at all times retain his or her entire ownership of the  
6 property, including the right to execute an oil and gas lease on any  
7 terms negotiated, and be entitled to all production subject to  
8 subsection (2) of this section; or

9 (b) To grant a lease to the operator at the current fair market  
10 value for that interest for comparable leases or interests at the time  
11 of the commencement of drilling; or

12 (c) To pay his or her pro rata share of the costs of the well or  
13 wells in the development unit and receive his or her pro rata share of  
14 production, if any.

15 A nonconsenting owner who does not make an election as provided in  
16 this subsection is deemed to have elected to be treated under (a) of  
17 this subsection.

18 **Sec. 834.** RCW 78.52.257 and 1983 c 253 s 22 are each amended to  
19 read as follows:

20 (1) An order pooling a development unit shall automatically  
21 dissolve:

22 (a) One year after its effective date if there has been no  
23 production of commercial quantities or drilling operations on lands  
24 within the unit;

25 (b) Six months after completion of a dry hole on the unit; or

26 (c) Six months after cessation of production of commercial  
27 quantities from the unit, unless, prior to the expiration of such six-  
28 month period, the operator shall, in good faith, commence drilling or  
29 reworking operations in an effort to restore production.

30 (2) Upon the termination of a lease pooled by order of the  
31 (~~committee~~) department under authority granted in this chapter,  
32 interests covered by the lease are considered pooled as unleased  
33 mineral interests.

34 (3) Any party to a pooling order is entitled, after due notice to  
35 all parties, to a hearing to modify or terminate a previously entered  
36 pooling order upon presenting new evidence showing that the previous  
37 determination of reservoir conclusions are substantially incorrect.

1       (4) The (~~committee, in its discretion~~) department, after notice  
2 and hearing, may grant additional time, for good cause shown, before a  
3 pooling order is automatically dissolved as provided in subsection (1)  
4 of this section. In no case may such an extension be longer than six  
5 months.

6       **Sec. 835.** RCW 78.52.260 and 1951 c 146 s 28 are each amended to  
7 read as follows:

8       Whenever the (~~committee shall~~) department requires the making and  
9 filing of well logs, directional surveys, or reports on the drilling  
10 of, subsurface conditions found in, or reports with respect to the  
11 substance produced, or capable of being produced from, a "wildcat" or  
12 "exploratory" well, as those terms are used in the petroleum industry,  
13 such logs, surveys, reports, or information shall be kept confidential  
14 by the (~~committee~~) department for a period of one year, if at the  
15 time of filing such logs, surveys, reports, or other information, the  
16 owner, lessee, or operator of such well requests that such information  
17 be kept confidential: PROVIDED, HOWEVER, That the (~~committee shall~~  
18 ~~have the right to~~) department may divulge or use such information in  
19 a public hearing or suit when it is necessary for the enforcement of  
20 the provisions of this chapter or any rule, regulation, or order made  
21 hereunder.

22       **Sec. 836.** RCW 78.52.270 and 1951 c 146 s 29 are each amended to  
23 read as follows:

24       Whenever the total amount of oil which all of the pools in this  
25 state can currently produce in accordance with good operating  
26 practices, exceeds the amount reasonably required to meet the  
27 reasonable market demand, the (~~committee~~) department shall limit the  
28 oil which may be currently produced in this state to an amount,  
29 designated the "oil allowable(~~(  )~~)."   The (~~committee~~) department  
30 shall then prorate this "oil allowable" among the pools on a reasonable  
31 basis, avoiding undue discrimination among the pools, and so that waste  
32 will be prevented. In determining the "oil allowable(~~(  )~~),"   and in  
33 prorating such "oil allowable" among the pools in the state, the  
34 (~~committee~~) department shall take into account the producing  
35 conditions and other relevant facts with respect to such pools,  
36 including the separate needs for oil and gas, and separate needs for  
37 oil of particular kinds or qualities, and shall formulate rules setting

1 forth standards or a program for the determination of the "oil  
2 allowable(<sup>u</sup>)," and shall prorate the "oil allowable" in accordance  
3 with such standards or program, and where conditions in one pool or  
4 area are substantially similar to those in another pool or area, then  
5 the same standards or program shall be applied to such pools or areas  
6 so that as far as practicable a uniform program will be followed:  
7 PROVIDED, HOWEVER, That if the amount prorated to a pool as its share  
8 of the "oil allowable" is in excess of the amount which the pool can  
9 efficiently produce currently, then the (~~committee~~) department shall  
10 prorate to such pool the maximum amount which can be efficiently  
11 produced currently without waste.

12 **Sec. 837.** RCW 78.52.280 and 1951 c 146 s 30 are each amended to  
13 read as follows:

14 The (~~committee~~) department shall not be required to determine the  
15 reasonable market demand applicable to any single pool of oil except in  
16 relation to all pools producing oil of similar kind and quality and in  
17 relation to the reasonable market demand. The (~~committee~~) department  
18 shall prorate the "allowable" in such manner as will prevent undue  
19 discrimination against any pool or area in favor of another or others  
20 resulting from selective buying or nomination by purchasers.

21 **Sec. 838.** RCW 78.52.290 and 1951 c 146 s 31 are each amended to  
22 read as follows:

23 Whenever the total amount of gas which all of the pools in this  
24 state can currently produce in accordance with good operating practice  
25 exceeds the amount reasonably required to meet the reasonable market  
26 demand, the (~~committee~~) department shall limit the gas which may be  
27 currently produced to an amount, designated as the "gas  
28 allowable(<sup>u</sup>)," which will not exceed the reasonable market demand for  
29 gas. The (~~committee~~) department shall then prorate the "gas  
30 allowable" among the pools on a reasonable basis, avoiding undue  
31 discrimination among the pools, and so that waste will be prevented,  
32 giving due consideration to location of pipe lines, cost of  
33 interconnecting such pipe lines, and other pertinent factors, and  
34 insofar as applicable, the provisions of RCW 78.52.270 shall be  
35 followed in determining the "gas allowable" and in prorating such "gas  
36 allowable" among the pools therein: PROVIDED, HOWEVER, That in  
37 determining the reasonable market demand for gas as between pools, the

1 ((committee)) department shall give due regard to the fact that gas  
2 produced from oil pools is to be regulated in a manner which will  
3 protect the reasonable use of gas energy for oil production and promote  
4 the most or maximum efficient recovery of oil from such pools.

5 **Sec. 839.** RCW 78.52.300 and 1951 c 146 s 32 are each amended to  
6 read as follows:

7 Whenever the total amount of gas which may be currently produced  
8 from all of the pools in this state has not been limited as hereinabove  
9 provided, and the available production from any one pool containing gas  
10 only is in excess of the reasonable market demand or available  
11 transportation facilities for gas from such pool, the ((committee))  
12 department shall limit the production of gas from such pool to that  
13 amount which does not exceed the reasonable market demand or  
14 transportation facilities for gas from such pool.

15 **Sec. 840.** RCW 78.52.310 and 1951 c 146 s 33 are each amended to  
16 read as follows:

17 Whenever the ((committee)) department limits the total amount of  
18 oil or gas which may be produced from any pool to an amount less than  
19 that which the pool could produce if no restrictions were imposed  
20 (whether incidental to, or without, a limitation of the total amount of  
21 oil which may be produced in the state) the ((committee)) department  
22 shall prorate the allowable production for the pool among the producers  
23 in the pool on a reasonable basis, so that each producer will have  
24 opportunity to produce or receive his or her just and equitable share,  
25 subject to the reasonable necessities for the prevention of waste,  
26 giving where reasonable, under the circumstances, to each pool with  
27 small wells of settled production, allowable production which prevents  
28 the premature abandonment of wells in the pool.

29 All orders establishing the "oil allowable" and "gas allowable" for  
30 this state, and all orders prorating such allowables as herein  
31 provided, and any changes thereof, for any month or period shall be  
32 issued by the ((committee)) department on or before the fifteenth day  
33 of the month preceding the month for which such orders are to be  
34 effective, and such orders shall be immediately published in some  
35 newspaper of general circulation printed in Olympia, Washington. No  
36 orders establishing such allowables, or prorating such allowables, or  
37 any changes thereof, shall be issued without first having a hearing,



1 after notice, as provided in this chapter: PROVIDED, HOWEVER, When in  
2 the judgment of the (~~committee~~) department, an emergency requiring  
3 immediate action is found to exist, the (~~committee is authorized to~~)  
4 department may issue an emergency order under this section which shall  
5 have the same effect and validity as if a hearing with respect to the  
6 same had been held after due notice. The emergency order permitted by  
7 this (~~subsection~~) section shall remain in force no longer than thirty  
8 days, and in any event it shall expire when the order made after due  
9 notice and hearing with respect to the subject matter of the emergency  
10 order becomes effective.

11 **Sec. 841.** RCW 78.52.320 and 1951 c 146 s 34 are each amended to  
12 read as follows:

13 Whenever the production of oil or gas in this state or any pool  
14 therein is limited and the "oil allowable" or "gas allowable" is  
15 established and prorated by the (~~committee~~) department as provided in  
16 RCW 78.52.310, no person shall thereafter produce from any well, pool,  
17 lease, or property more than the production which is prorated thereto.

18 **Sec. 842.** RCW 78.52.330 and 1951 c 146 s 35 are each amended to  
19 read as follows:

20 To assist in the development of oil and gas in this state and to  
21 further the purposes of this chapter, the persons owning interests in  
22 separate tracts of land, may validly agree to integrate their interests  
23 and manage, operate, and develop their land as a unit, subject to the  
24 approval of the (~~committee~~) department.

25 **Sec. 843.** RCW 78.52.335 and 1983 c 253 s 23 are each amended to  
26 read as follows:

27 (1) The (~~committee~~) department shall upon the application of any  
28 interested person, or upon its own motion, hold a hearing to consider  
29 the need for the operation as a unit of one or more pools or parts of  
30 them in a field.

31 (2) The (~~committee shall have the authority to~~) department may  
32 enter an order providing for the unit operations if (~~the committee~~)  
33 it finds that:

34 (a) The unit operations are necessary for secondary recovery or  
35 enhanced recovery purposes. For purposes of this chapter secondary or  
36 enhanced recovery means that oil or gas or both are recovered by any

1 method, artificial flowing or pumping, that may be employed to produce  
2 oil or gas, or both, through the joint use of two or more wells with an  
3 application of energy extrinsic to the pool or pools. This includes  
4 pressuring, cycling, pressure maintenance, or injections into the pool  
5 or pools of a substance or form of energy: PROVIDED, That this does  
6 not include the injection in a well of a substance or form of energy  
7 for the sole purpose of (i) aiding in the lifting of fluids in the  
8 well, or (ii) stimulation of the reservoir at or near the well by  
9 mechanical, chemical, thermal, or explosive means;

10 (b) The unit operations will protect correlative rights;

11 (c) The operations will increase the ultimate recovery of oil or  
12 gas, or will prevent waste, or will prevent the drilling of unnecessary  
13 wells; and

14 (d) The value of the estimated additional recovery of oil and/or  
15 gas exceeds the estimated additional cost incident to conducting these  
16 operations.

17 (3) The (~~committee shall also have the authority to~~) department  
18 may also enter an order providing for unit operations, after notice and  
19 hearing, only if the (~~committee~~) department finds that there is clear  
20 and convincing evidence that all of the following conditions are met:

21 (a) In the absence of unitization, the ultimate recovery of oil or  
22 gas, or both, will be substantially decreased because normal production  
23 techniques and methods are not feasible and will not result in the  
24 maximum efficient and economic recovery of oil or gas, or both;

25 (b) The unit operations will protect correlative rights;

26 (c) The unit operations will prevent waste, or will prevent the  
27 drilling of unnecessary wells;

28 (d) There has been a discovery of a commercial oil or gas field;  
29 and

30 (e) There has been sufficient exploration, drilling activity, and  
31 development to properly define the one or more pools or parts of them  
32 in a field proposed to be unitized.

33 (4) Notwithstanding any of the above, nothing in this chapter may  
34 be construed to prevent the voluntary agreement of all interested  
35 persons to any plan of unit operations. The (~~committee~~) department  
36 shall approve operations upon making a finding consistent with  
37 subsection(~~(s)~~) (2) (b) and (c) of this section.

1 (5) The order shall be upon terms and conditions that are fair and  
2 reasonable and shall prescribe a plan for unit operations that  
3 includes:

4 (a) A description of the pool or pools or parts thereof to be so  
5 operated, termed the unitized area;

6 (b) A statement of the nature of the operations contemplated;

7 (c) An allocation of production and costs to the separately-owned  
8 tracts in the unitized area. The allocation shall be in accord with  
9 the agreement, if any, of the interested parties. If there is no  
10 agreement, production shall be allocated in a manner calculated to  
11 ensure that each owner's correlative rights are protected, and each  
12 separately-owned tract or combination of tracts receives its fair and  
13 reasonable share of production. Costs shall be allocated on a fair and  
14 reasonable basis;

15 (d) A provision, if necessary, prescribing fair, reasonable, and  
16 equitable terms and conditions as to time and rate of interest for  
17 carrying or otherwise financing any person who is unable to promptly  
18 meet his or her financial obligations in connection with the unit, such  
19 carrying and interest charges to be paid as provided by the  
20 ((committee)) department from the person's prorated share of  
21 production;

22 (e) A provision for the supervision and conduct of the unit  
23 operations, in respect to which each owner shall have a vote with a  
24 value corresponding to the percentage of the costs of unit operations  
25 chargeable against the owner's interest;

26 (f) The time when the unit operations shall commence, the timetable  
27 for development, and the manner and circumstances under which the unit  
28 operations shall terminate; and

29 (g) Additional provisions which are found to be appropriate for  
30 carrying out the unit operations and for the protection of correlative  
31 rights.

32 (6) No order of the ((committee)) department providing for unit  
33 operations may become effective until:

34 (a) The plan for unit operations approved by the ((committee))  
35 department has been approved in writing by those persons who, under the  
36 ((committee's)) department's order, will be required to pay at least  
37 seventy-five percent of the costs of unit operations;

38 (b) The plan has been approved in writing by those persons such as  
39 royalty owners, overriding royalty owners, and production payment

1 owners, who own at least seventy-five percent of the production or  
2 proceeds thereof that will be credited to interests that are free of  
3 costs; and

4 (c) The ((committee)) department has made a finding, either in the  
5 order providing for unit operations or in a supplemental order, that  
6 the plan for unit operations has been so approved. If the plan for  
7 unit operations has not been so approved at the time the order  
8 providing for unit operations is made, the ((committee)) department  
9 shall upon application and notice hold such supplemental hearings as  
10 may be required to determine if and when the plan for unit operations  
11 has been so approved. If the persons owning required percentages of  
12 interest in the unitized area do not approve the plan for unit  
13 operations within a period of six months from the date on which the  
14 order providing for unit operations is made, or within such additional  
15 period or periods of time as the ((committee)) department prescribes,  
16 the order will become unenforceable and shall be vacated by the  
17 ((committee)) department.

18 (7) An order providing for unit operations may be amended by an  
19 order made by the ((committee)) department in the same manner and  
20 subject to the same conditions as an original order, except as provided  
21 in subsection (8) of this section, providing for unit operations, but  
22 (a) if such an amendment affects only the rights and interests of the  
23 owners, the approval of the amendment by those persons who own  
24 interests that are free of costs is not required, and (b) no such  
25 amending order may change the percentage for the allocation of oil and  
26 gas as established for any separately-owned tract or combination of  
27 tracts by the original order, except with the consent of all persons  
28 owning oil and gas rights in the tract, and no such order may change  
29 the percentage for the allocation of cost as established for any  
30 separately-owned tract or combination of tracts by the original order,  
31 except with the consent of all persons owning an interest in the tract  
32 or combination of tracts. An amendment that provides for the expansion  
33 of the unit area shall comply with subsection (8) of this section.

34 (8) The ((committee)) department, by order, may provide for the  
35 unit operation of a reservoir or reservoirs or parts thereof that  
36 include a unitized area established by a previous order of the  
37 ((committee)) department. The order, in providing for the allocation  
38 of unit production, shall first treat the unitized area previously  
39 established as a single tract and the portion of the new unit

1 production allocated thereto shall then be allocated among the  
2 separately-owned tracts included in the previously established unit  
3 area in the same proportions as those specified in the previous order.

4 (9) After the date designated by the (~~committee~~) department the  
5 unit plan shall be effective, oil and gas leases within the unit area,  
6 or other contracts pertaining to the development thereof, shall be  
7 changed only to the extent necessary to meet the requirements of the  
8 unit plan, and otherwise shall remain in full force. Operations  
9 carried on under and in accordance with the unit plan shall be regarded  
10 and considered as fulfillment of and compliance with all of the  
11 provisions, covenants, and conditions, expressed or implied, of the  
12 several oil and gas leases upon lands within the unit area, or other  
13 contracts pertaining to the development thereof, insofar as the leases  
14 or other contracts may relate to the pool or field subject to the unit  
15 plan. The amount of production apportioned and allocated under the  
16 unit plan to each separately-owned tract within the unit area, and only  
17 that amount, regardless of the location of the well within the unit  
18 area from which it may be produced, and regardless of whether it is  
19 more or less than the amount of production from the well, if any, on  
20 each separately-owned tract, shall for all purposes be regarded as  
21 production from the separately-owned tract. Lessees shall not be  
22 obligated to pay royalties or make other payments, required by the oil  
23 and gas leases or other contracts affecting each such separately-owned  
24 tract, on production in excess of that amount apportioned and allocated  
25 to the separately-owned tract under the unit plan.

26 (10) The portion of the unit production allocated to any tract and  
27 the proceeds from its sale are the property and income of the several  
28 persons to whom, or to whose credit, the portion and proceeds are  
29 allocated or payable under the order providing for unit operations.

30 (11) No division order or other contract relating to the sale,  
31 purchase, or production from a separately-owned tract or combination of  
32 tracts may be terminated by the order providing for unit operations but  
33 shall remain in force and shall apply to oil and gas allocated to the  
34 tract until terminated by an amended division order or contract in  
35 accordance with the order.

36 (12) Except to the extent that parties affected so agree, an order  
37 providing for unit operations shall not be construed to result in a  
38 transfer of all or any part of the title of any person to the oil and  
39 gas rights in any tract in the unit area. All property, whether real

1 or personal, that may be acquired in the conduct of unit operations  
2 hereunder shall be acquired for the account of the owners within the  
3 unit area, and shall be the property of those owners in the proportion  
4 that the expenses of unit operations are charged.

5 (13) After the date designated by the order of the ((committee))  
6 department that a unit plan shall become effective, the designation of  
7 one or more unit operators shall be by vote of the lessees of land in  
8 the unit area, in a manner to be provided in the unit plan, and any  
9 operations in conflict with such unit plan shall be unlawful and are  
10 prohibited.

11 (14) A certified copy of any order of the ((committee)) department  
12 entered under this section is entitled to be recorded in the auditor's  
13 office in the county or counties wherein all or any portion of the unit  
14 area is located and, if recorded, constitute notice thereof to all  
15 persons. A copy of this order shall be mailed by certified mail to all  
16 interested persons.

17 (15) No order for unitization may be construed to allow the  
18 drilling of a well on a tract within the unit which is not leased or  
19 under contract for oil and gas exploration or production.

20 **Sec. 844.** RCW 78.52.365 and 1983 c 253 s 26 are each amended to  
21 read as follows:

22 The ((committee)) department may administer and enforce RCW  
23 78.52.345 and 78.52.355 in accordance with the procedures in this  
24 chapter for its enforcement and with the rules and orders of the  
25 ((committee)) department.

26 **Sec. 845.** RCW 78.52.460 and 1951 c 146 s 49 are each amended to  
27 read as follows:

28 No plan for the operation of a field or pool of oil or gas as a  
29 unit, either whole or in part, created or approved by the ((committee  
30 hereunder shall)) department under this chapter may be held to violate  
31 any of the statutes of this state prohibiting monopolies or acts,  
32 arrangements, agreements, contracts, combinations, or conspiracies in  
33 restraint of trade or commerce.

34 **Sec. 846.** RCW 78.52.463 and 1989 c 175 s 167 are each amended to  
35 read as follows:

1 (1) Any operation or activity that is in violation of applicable  
2 laws, rules, orders, or permit conditions is subject to suspension by  
3 order of the ((committee)) department. The order may suspend the  
4 operations authorized in the permit in whole or in part. The order may  
5 be issued only after the ((committee)) department has first notified  
6 the operator or owner of the violations and the operator or owner has  
7 failed to comply with the directions contained in the notification  
8 within ten days of service of the notice: PROVIDED, That the  
9 ((committee)) department may issue the suspension order immediately  
10 without notice if the violations are or may cause substantial harm to  
11 adjacent property, persons, or public resources, or has or may result  
12 in the pollution of waters in violation of any state or federal law or  
13 rule. A suspension shall remain in effect until the violations are  
14 corrected or other directives are complied with unless declared invalid  
15 by the ((committee)) department after hearing or an appeal. The  
16 suspension order and notification, where applicable, shall specify the  
17 violations and the actions required to be undertaken to be in  
18 compliance with such laws, rules, orders, or permit conditions. The  
19 order and notification may also require remedial actions to be  
20 undertaken to restore, prevent, or correct activities or conditions  
21 which have resulted from the violations. The order and notification  
22 may be directed to the operator or owner or both.

23 (2) The suspension order constitutes a final and binding order  
24 unless the owner or operator to whom the order is directed requests a  
25 hearing before the ((committee)) department within fifteen days after  
26 service of the order. Such a request shall not in itself stay or  
27 suspend the order and the operator or owner shall comply with the order  
28 immediately upon service. The ~~((committee or its chairman have the  
29 authority to))~~ department may stay or suspend in whole or in part the  
30 suspension order pending a hearing if so requested. The hearing shall  
31 constitute an adjudicative proceeding under chapter 34.05 RCW, the  
32 Administrative Procedure Act.

33 **Sec. 847.** RCW 78.52.467 and 1983 c 253 s 30 are each amended to  
34 read as follows:

35 (1) The sale, purchase, acquisition, transportation, refining,  
36 processing, or handling of illegal oil, gas, or product is prohibited.  
37 However, no penalty by way of fine may be imposed upon a person who  
38 sells, purchases, acquires, transports, refines, processes, or handles

1 illegal oil, gas, or product unless (a) the person knows, or is put on  
2 notice of, facts indicating that illegal oil, illegal gas, or illegal  
3 product is involved, or (b) the person fails to obtain a certificate of  
4 clearance with respect to the oil, gas, or product if prescribed by  
5 rule or order of the ((committee)) department, or fails to follow any  
6 other method prescribed by an order of the ((committee)) department for  
7 the identification of the oil, gas, or product.

8 (2) Illegal oil, illegal gas, and illegal product are declared to  
9 be contraband and are subject to seizure and sale as provided in this  
10 section. Seizure and sale shall be in addition to all other remedies  
11 and penalties provided in this chapter for violations relating to  
12 illegal oil, illegal gas, or illegal product. If the ((committee))  
13 department believes that any oil, gas, or product is illegal, the  
14 ((committee)) department acting through the attorney general, shall  
15 bring a civil action in rem in the superior court of the county in  
16 which the oil, gas, or product is found, to seize and sell the same, or  
17 the ((committee)) department may include such an action in rem in any  
18 suit brought for an injunction or penalty involving illegal oil,  
19 illegal gas, or illegal product. A person claiming an interest in oil,  
20 gas, or product affected by an action in rem has the right to intervene  
21 as an interested party.

22 (3) Actions for the seizure and sale of illegal oil, illegal gas,  
23 or illegal product shall be strictly in rem and shall proceed in the  
24 name of the state as plaintiff against the oil, gas, or product as  
25 defendant. No bond or similar undertaking may be required of the  
26 plaintiff. Upon the filing of the petition for seizure and sale, the  
27 clerk of the court shall issue a summons, with a copy of the petition  
28 attached thereto, directed to the sheriff of the county or to another  
29 officer or person whom the court may designate, for service upon all  
30 persons having or claiming any interest in the oil, gas, or product  
31 described in the petition. The summons shall command these persons to  
32 appear and answer within twenty days after the issuance and service of  
33 the summons. These persons need not be named or otherwise identified  
34 in the summons, and the summons shall be served by posting a copy of  
35 the summons, with a copy of the petition attached, on any public  
36 bulletin board or at the courthouse of a county where the oil, gas, or  
37 product involved is located, and by posting another copy at or near the  
38 place where the oil, gas, or product is located. The posting  
39 constitutes notice of the action to all persons having or claiming any



1 interest in the oil, gas, or product described in the petition. In  
2 addition, if the court, on a properly verified petition, or affidavit  
3 or affidavits, or oral testimony, finds that grounds for seizure and  
4 for sale exist, the court shall issue an immediate order of seizure,  
5 describing the oil, gas, or product to be seized, and directing the  
6 sheriff of the county to take the oil, gas, or product into the  
7 sheriff's actual or constructive custody and to hold the same subject  
8 to further orders of the court. The court, in the order of seizure,  
9 may direct the sheriff to deliver the oil, gas, or product seized by  
10 him or her under the order to a court-appointed agent. The agent shall  
11 give bond in an amount and with such surety as the court may direct,  
12 conditioned upon compliance with the orders of the court concerning the  
13 custody and disposition of the oil, gas, or product.

14 (4) Any person having an interest in oil, gas, or product described  
15 in order of seizure and contesting the right of the state to seize and  
16 sell the oil, gas, or product may obtain its release prior to sale upon  
17 furnishing to the sheriff a bond approved by the court. The bond shall  
18 be in an amount equal to one hundred fifty percent of the market value  
19 of the oil, gas, or product to be released and shall be conditioned  
20 upon either redelivery to the sheriff of the released commodity or  
21 payment to the sheriff of its market value, if and when ordered by the  
22 court, and upon full compliance with further orders of the court.

23 (5) If the court, after a hearing upon a petition for the seizure  
24 and sale of oil, gas, or product, finds that the oil, gas, or product  
25 is contraband, the court shall order its sale by the sheriff in the  
26 same manner and upon the same notice of sale as provided by law for the  
27 sale of personal property on execution of judgment entered in a civil  
28 action, except that the court may order that the oil, gas, or product  
29 be sold in specified lots or portions and at specified intervals. Upon  
30 sale, title to the oil, gas, or product sold shall vest in the  
31 purchaser free of all claims, and it shall be legal oil, legal gas, or  
32 legal product in the hands of the purchaser.

33 (6) All proceeds, less costs of suit and expenses of sale, which  
34 are derived from the sale of illegal oil, illegal gas, or illegal  
35 product, and all amounts paid as penalties provided for by this  
36 chapter, shall be paid into the state treasury for the use of the  
37 ((committee)) department in defraying its expenses in the same manner  
38 as other funds provided by law for the use of the ((committee))  
39 department.

1       **Sec. 848.** RCW 78.52.470 and 1989 c 175 s 168 are each amended to  
2 read as follows:

3       Any person adversely affected by any order of the ((committee))  
4 department may, within thirty days from the effective date of such  
5 order, apply for a hearing with respect to any matter determined  
6 therein. No cause for action arising out of any order of the  
7 ((committee shall)) department accrues in any court to any person  
8 unless the person makes application for a hearing as ((herein))  
9 provided in this section. Such application shall set forth  
10 specifically the ground on which the applicant considers the order to  
11 be unlawful or unreasonable. No party shall, in any court, urge or  
12 rely upon any ground not set forth in said application. An order made  
13 in conformity to a decision resulting from a hearing which abrogates,  
14 changes, or modifies the original order shall have the same force and  
15 effect as an original. Such hearing shall constitute an adjudicative  
16 proceeding under chapter 34.05 RCW, the Administrative Procedure Act,  
17 and shall be conducted in accordance with its provisions.

18       **Sec. 849.** RCW 78.52.480 and 1983 c 253 s 28 are each amended to  
19 read as follows:

20       In proceedings for review of an order or decision of the  
21 ((committee)) department, the ((committee)) department shall be a party  
22 to the proceedings and shall have all rights and privileges granted by  
23 this chapter to any other party to such proceedings.

24       **Sec. 850.** RCW 78.52.490 and 1983 c 253 s 32 are each amended to  
25 read as follows:

26       Within thirty days after the application for a hearing is denied,  
27 or if the application is granted, then within thirty days after the  
28 rendition of the decision on the hearing, the applicant may apply to  
29 the superior court, at the petitioner's option, for (a) Thurston  
30 county, (b) the county of petitioner's residence or place of business,  
31 or (c) in any county where the property or property rights owned by the  
32 petitioner is located for a review of such rule, regulation, order, or  
33 decision. The application for review shall be filed in the office of  
34 the clerk of the superior court of Thurston county and shall  
35 specifically state the grounds for review upon which the applicant  
36 relies and shall designate the rule, regulation, order, or decision  
37 sought to be reviewed. The applicant shall immediately serve a

1 certified copy of said application upon the (~~executive secretary of~~  
2 ~~the committee~~) commissioner of public lands who shall immediately  
3 notify all parties who appeared in the proceedings before the  
4 (~~committee~~) department that such application for review has been  
5 filed. In the event the court determines the review is solely for the  
6 purpose of determining the validity of a rule or regulation of general  
7 applicability the court shall transfer venue to Thurston county for a  
8 review of such rule or regulation in the manner provided for in RCW  
9 (~~34.05.538~~) 34.05.570.

10 **Sec. 851.** RCW 78.52.530 and 1951 c 146 s 56 are each amended to  
11 read as follows:

12 Whenever it shall appear that any person is violating any  
13 provisions of this chapter, or any rule, regulation, or order made by  
14 the (~~committee hereunder~~) department under this chapter, and if the  
15 (~~committee~~) department cannot, without litigation, effectively  
16 prevent further violation, the (~~committee~~) department may bring suit  
17 in the name of the state against such person in the superior court in  
18 the county of the residence of the defendant, or in the county of the  
19 residence of any defendant if there be more than one defendant, or in  
20 the county where the violation is alleged to have occurred, to restrain  
21 such person from continuing such violation. In such suit the  
22 (~~committee~~) department may without bond obtain injunctions  
23 prohibitory and mandatory, including temporary restraining orders and  
24 preliminary injunctions, as the facts may warrant.

25 **Sec. 852.** RCW 78.52.540 and 1951 c 146 s 57 are each amended to  
26 read as follows:

27 (~~In the event the committee should~~) If the department fails to  
28 bring suit within thirty days to enjoin any apparent violation of this  
29 chapter, or of any rule, regulation, or order made by the (~~committee~~  
30 ~~hereunder~~) department under this chapter, then any person or party in  
31 interest adversely affected by such violation, who has requested the  
32 (~~committee~~) department in writing to sue, may, to prevent any or  
33 further violation, bring suit for that purpose in the superior court of  
34 any county where the (~~committee~~) department could have instituted  
35 such suit. If, in such suit, the court should hold that injunctive  
36 relief should be granted, then the state shall be made a party and  
37 shall be substituted for the person who brought the suit, and the

1 injunction shall be issued as if the state had at all times been the  
2 complainant.

3 **OIL SPILL CONTINGENCY PLAN CORPORATION**

4 NEW SECTION. **Sec. 853.** A new section is added to chapter 88.46  
5 RCW to read as follows:

6 A nonprofit corporation established for the sole purpose of  
7 providing contingency plan coverage for any vessel in compliance with  
8 RCW 88.46.060 is entitled to liability protection as provided in this  
9 section. Obligations incurred by the corporation and any other  
10 liabilities or claims against the corporation may be enforced only  
11 against the assets of the corporation, and no liability for the debts  
12 or actions of the corporation exists against a director, officer,  
13 member, employee, incident commander, agent, contractor, or  
14 subcontractor of the corporation in his or her individual or  
15 representative capacity. Except as otherwise provided in this chapter,  
16 neither the directors, officers, members, employees, incident  
17 commander, or agents of the corporation, nor the business entities by  
18 whom they are regularly employed may be held individually responsible  
19 for discretionary decisions, errors in judgment, mistakes, or other  
20 acts, either of commission or omission, that are directly related to  
21 the operation or implementation of contingency plans, other than for  
22 acts of gross negligence or willful or wanton misconduct. The  
23 corporation may insure and defend and indemnify the directors,  
24 officers, members, employees, incident commanders, and agents to the  
25 extent permitted by chapters 23B.08 and 24.03 RCW. This section does  
26 not alter or limit the responsibility or liability of any person for  
27 the operation of a motor vehicle.

28 **MARINE SAFETY COMMITTEES**

29 NEW SECTION. **Sec. 854.** A new section is added to chapter 88.46  
30 RCW to read as follows:

31 The administrator may appoint ad hoc, advisory marine safety  
32 committees to solicit recommendations and technical advice concerning  
33 vessel traffic safety. The office may implement recommendations made  
34 in regional marine safety plans that are approved by the office and  
35 over which the office has authority. If federal authority or action is

1 required to implement the recommendations, the office may petition the  
2 appropriate agency or the Congress.

3 **SCIENTIFIC ADVISORY BOARD FOR THE OIL SPILL COMPENSATION SCHEDULE**

4 **Sec. 855.** RCW 90.48.366 and 1992 c 73 s 28 are each amended to  
5 read as follows:

6 By July 1, 1991, the department, in consultation with the  
7 departments of fisheries, wildlife, and natural resources, and the  
8 parks and recreation commission, shall adopt rules establishing a  
9 compensation schedule for the discharge of oil in violation of this  
10 chapter and chapter 90.56 RCW. (~~The department shall establish a~~  
11 ~~scientific advisory board to assist in establishing the compensation~~  
12 ~~schedule.~~) The amount of compensation assessed under this schedule  
13 shall be no less than one dollar per gallon of oil spilled and no  
14 greater than fifty dollars per gallon of oil spilled. The compensation  
15 schedule shall reflect adequate compensation for unquantifiable damages  
16 or for damages not quantifiable at reasonable cost for any adverse  
17 environmental, recreational, aesthetic, or other effects caused by the  
18 spill and shall take into account:

19 (1) Characteristics of any oil spilled, such as toxicity,  
20 dispersibility, solubility, and persistence, that may affect the  
21 severity of the effects on the receiving environment, living organisms,  
22 and recreational and aesthetic resources;

23 (2) The sensitivity of the affected area as determined by such  
24 factors as: (a) The location of the spill; (b) habitat and living  
25 resource sensitivity; (c) seasonal distribution or sensitivity of  
26 living resources; (d) areas of recreational use or aesthetic  
27 importance; (e) the proximity of the spill to important habitats for  
28 birds, aquatic mammals, fish, or to species listed as threatened or  
29 endangered under state or federal law; (f) significant archaeological  
30 resources as determined by the office of archaeology and historic  
31 preservation; and (g) other areas of special ecological or recreational  
32 importance, as determined by the department. If the department has  
33 adopted rules for a compensation table prior to July 1, 1992, the  
34 sensitivity of significant archaeological resources shall only be  
35 included among factors to be used in the compensation table when the  
36 department revises the rules for the compensation table after July 1,  
37 1992; and

1 (3) Actions taken by the party who spilled oil or any party liable  
2 for the spill that: (a) Demonstrate a recognition and affirmative  
3 acceptance of responsibility for the spill, such as the immediate  
4 removal of oil and the amount of oil removed from the environment; or  
5 (b) enhance or impede the detection of the spill, the determination of  
6 the quantity of oil spilled, or the extent of damage, including the  
7 unauthorized removal of evidence such as injured fish or wildlife.

8 **TASK FORCE ON STATE-WIDE EVALUATION OF IRRIGATED AREAS**

9 **Sec. 856.** RCW 90.54.190 and 1989 c 348 s 11 are each amended to  
10 read as follows:

11 (~~(The department of ecology may establish a task force to~~  
12 ~~assist in a state wide evaluation of irrigated areas, not to exceed six~~  
13 ~~months in duration, to determine the associated impacts of efficiency~~  
14 ~~measures, efficiency opportunities, and local interest.)) The~~  
15 department ((and the task force)) shall establish a list of basin and  
16 stream efficiency initiatives and select an irrigation area for a  
17 voluntary demonstration project.

18 (2) Prior to conducting conservation assessments and developing  
19 conservation plans, the department of ecology shall secure technical  
20 and financial assistance from the bureau of reclamation to reduce the  
21 costs to the state to the extent possible.

22 (3) A "conservation assessment" as described in this section shall  
23 be conducted before a demonstration project to increase the efficiency  
24 of irrigated agriculture is undertaken for an irrigated area, a basin,  
25 subbasin, or stream. The conservation assessment should:

26 (a) Evaluate existing patterns, including current reuse of return  
27 flows, and priorities of water use;

28 (b) Assess conflicting needs for future water allocations and  
29 claims to reserved rights;

30 (c) Evaluate hydrologic characteristics of surface and ground water  
31 including return flow characteristics;

32 (d) Assess alternative efficiency measures;

33 (e) Determine the likely net water savings of efficiency  
34 improvements including the amount and timing of water that would be  
35 saved and potential benefits and impacts to other water uses and  
36 resources including effects on artificial recharge of ground water and  
37 wetland impacts;

1 (f) Evaluate the full range of costs and benefits that would accrue  
2 from various measures; and

3 (g) Evaluate the potential for integrating conservation efforts  
4 with operation of existing or potential storage facilities.

5 (4) The conservation assessment shall be used as the basis for  
6 development of a demonstration conservation plan to rank conservation  
7 elements based on relative costs, benefits, and impacts. It shall also  
8 estimate the costs of implementing the plan and propose a specific  
9 basis for cost share distributions.

10 The demonstration conservation plan shall be developed jointly by  
11 the department and a conservation plan formulation committee consisting  
12 of representatives of a cross-section of affected local water users,  
13 members of the public, and tribal governments. Other public agencies  
14 with expertise in water resource management may participate as  
15 nonvoting committee members. A proposed demonstration conservation  
16 plan may be approved by the department and the committee only after  
17 public comment has been received.

18 (5) The department shall reimburse any members (~~(of the task force~~  
19 ~~in subsection (2) [(1)] of this section or~~) of the committee in  
20 subsection (4) of this section who are not representing governmental  
21 agencies or entities for their travel expenses in accordance with RCW  
22 43.03.050 and 43.03.060.

23 NEW SECTION. **Sec. 857.** Broker's Trust Account Board. RCW  
24 18.85.500 and 1987 c 513 s 8 are each repealed.

25 NEW SECTION. **Sec. 858.** Washington State Heritage Council. The  
26 following acts or parts of acts are each repealed:

27 (1) RCW 27.34.030 and 1983 c 91 s 3;

28 (2) RCW 27.34.040 and 1993 c 101 s 11 & 1983 c 91 s 4; and

29 (3) RCW 27.34.050 and 1983 c 91 s 5.

30 NEW SECTION. **Sec. 859.** Supply Management Advisory Board. RCW  
31 43.19.1902 and 1979 c 151 s 97, 1975-'76 2nd ex.s. c 21 s 3, 1967 ex.s.  
32 c 104 s 3, & 1965 c 8 s 43.19.1902 are each repealed.

33 NEW SECTION. **Sec. 860.** Motor Vehicle Advisory Committee. RCW  
34 43.19.556 and 1989 c 57 s 4 are each repealed.

1        NEW SECTION.    **Sec. 861.**    Ecological Commission.    The following acts  
2 or parts of acts are each repealed:

3        (1) RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217, 1988 c 36 s 15,  
4 1985 c 466 s 50, 1979 c 141 s 68, & 1970 ex.s. c 62 s 17;

5        (2) RCW 43.21A.180 and 1984 c 287 s 76, 1975-'76 2nd ex.s. c 34 s  
6 100, & 1970 ex.s. c 62 s 18;

7        (3) RCW 43.21A.190 and 1988 c 127 s 24 & 1970 ex.s. c 62 s 19;

8        (4) RCW 43.21A.200 and 1977 c 75 s 47 & 1970 ex.s. c 62 s 20; and

9        (5) RCW 43.21A.210 and 1970 ex.s. c 62 s 21.

10       NEW SECTION.    **Sec. 862.**    Nuclear Waste Advisory Council.    RCW  
11 43.200.050 and 1989 c 322 s 4, 1984 c 161 s 6, & 1983 1st ex.s. c 19 s  
12 5 are each repealed.

13       NEW SECTION.    **Sec. 863.**    Athletic Health Care and Training Council.  
14 The following acts or parts of acts are each repealed:

15        (1) RCW 43.230.010 and 1990 c 33 s 583 & 1984 c 286 s 2;

16        (2) RCW 43.230.020 and 1984 c 286 s 3;

17        (3) RCW 43.230.030 and 1984 c 286 s 4;

18        (4) RCW 43.230.040 and 1984 c 286 s 5; and

19        (5) 1984 c 286 s 13 (uncodified).

20       NEW SECTION.    **Sec. 864.**    Insurance Advisory Examining Board.    RCW  
21 48.17.135 and 1984 c 287 s 96, 1975-'76 2nd ex.s. c 34 s 142, & 1967 c  
22 150 s 14 are each repealed.

23       NEW SECTION.    **Sec. 865.**    Right-to-Know Advisory Council.    The  
24 following acts or parts of acts are each repealed:

25        (1) RCW 49.70.120 and 1987 c 24 s 1, 1985 c 409 s 5, & 1984 c 289  
26 s 17; and

27        (2) RCW 49.70.130 and 1984 c 289 s 18.

28       NEW SECTION.    **Sec. 866.**    Winter Recreation Commission.    The  
29 following acts or parts of acts are each repealed:

30        (1) RCW 67.34.011 and 1987 c 526 s 1; and

31        (2) RCW 67.34.021 and 1987 c 526 s 2.

32       NEW SECTION.    **Sec. 867.**    Science Advisory Board.    RCW 70.94.039 and  
33 1991 c 199 s 314 are each repealed.



1        NEW SECTION.    **Sec. 868.**    Korean War Veterans' Memorial Advisory  
2 Committee.    The following acts or parts of acts are each repealed:

- 3        (1) RCW 73.40.020 and 1984 c 81 s 2; and  
4        (2) RCW 73.40.050 and 1989 c 235 s 2.

5        NEW SECTION.    **Sec. 869.**    Oil and Gas Conservation Committee.    RCW  
6 78.52.020 and 1988 c 128 s 49, 1983 c 253 s 31, 1971 ex.s. c 180 s 7,  
7 1961 c 300 s 7, & 1951 c 146 s 4 are each repealed.

8        NEW SECTION.    **Sec. 870.**    Washington State Maritime Commission.    The  
9 following acts or parts of acts are each repealed, effective July 1,  
10 1995:

- 11        (1) RCW 88.44.005 and 1990 c 117 s 1;  
12        (2) RCW 88.44.010 and 1992 c 73 s 15, 1991 c 200 s 901, & 1990 c  
13 117 s 2;  
14        (3) RCW 88.44.020 and 1991 c 200 s 902 & 1990 c 117 s 3;  
15        (4) RCW 88.44.030 and 1991 c 200 s 903 & 1990 c 117 s 4;  
16        (5) RCW 88.44.040 and 1991 c 200 s 904 & 1990 c 117 s 5;  
17        (6) RCW 88.44.080 and 1991 c 200 s 905 & 1990 c 117 s 9;  
18        (7) RCW 88.44.090 and 1990 c 117 s 10;  
19        (8) RCW 88.44.100 and 1992 c 73 s 16 & 1990 c 117 s 11;  
20        (9) RCW 88.44.110 and 1992 c 73 s 17, 1991 c 200 s 906, & 1990 c  
21 117 s 12;  
22        (10) RCW 88.44.120 and 1990 c 117 s 13;  
23        (11) RCW 88.44.130 and 1990 c 117 s 14;  
24        (12) RCW 88.44.140 and 1990 c 117 s 15;  
25        (13) RCW 88.44.150 and 1990 c 117 s 16;  
26        (14) RCW 88.44.160 and 1991 c 200 s 907 & 1990 c 117 s 17;  
27        (15) RCW 88.44.170 and 1990 c 117 s 18;  
28        (16) RCW 88.44.180 and 1990 c 117 s 19;  
29        (17) RCW 88.44.190 and 1990 c 117 s 20;  
30        (18) RCW 88.44.200 and 1990 c 117 s 21;  
31        (19) RCW 88.44.210 and 1990 c 117 s 22;  
32        (20) RCW 88.44.220 and 1990 c 117 s 23;  
33        (21) RCW 88.44.900 and 1990 c 117 s 24; and  
34        (22) RCW 88.44.901 and 1990 c 117 s 25.

35        NEW SECTION.    **Sec. 871.**    Regional Marine Safety Committees.    RCW  
36 88.46.110 and 1992 c 73 s 24 & 1991 c 200 s 424 are each repealed.

1        NEW SECTION.    **Sec. 872.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 873.**    Headings and captions used in this act  
6 constitute no part of the law.

7        NEW SECTION.    **Sec. 874.**    This act takes effect July 1, 1994.

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