
SENATE BILL 5314

State of Washington

53rd Legislature

1993 Regular Session

By Senators Talmadge, Moyer, Deccio and Winsley

Read first time 01/22/93. Referred to Committee on Health & Human Services.

1 AN ACT Relating to health care reform; amending RCW 70.170.010,
2 70.170.020, 70.170.030, 70.170.040, 70.170.050, 70.170.100, 70.170.110,
3 7.70.070, 43.70.050, 43.70.060, 43.70.070, and 18.19.160; reenacting
4 and amending RCW 18.64.080; adding a new section to chapter 43.70 RCW;
5 adding new sections to Title 51 RCW; adding new sections to chapter
6 7.70 RCW; adding a new chapter to Title 43 RCW; adding a new chapter to
7 Title 70 RCW; creating a new section; recodifying RCW 70.170.010,
8 70.170.020, 70.170.030, 70.170.040, 70.170.050, 70.170.100, and
9 70.170.110; repealing RCW 19.68.010, 19.68.020, 19.68.030, 19.68.040,
10 48.20.002, 48.20.012, 48.20.013, 48.20.015, 48.20.022, 48.20.032,
11 48.20.042, 48.20.050, 48.20.052, 48.20.062, 48.20.072, 48.20.082,
12 48.20.092, 48.20.102, 48.20.112, 48.20.122, 48.20.132, 48.20.142,
13 48.20.152, 48.20.162, 48.20.172, 48.20.192, 48.20.202, 48.20.212,
14 48.20.222, 48.20.232, 48.20.242, 48.20.252, 48.20.262, 48.20.272,
15 48.20.282, 48.20.292, 48.20.302, 48.20.312, 48.20.322, 48.20.340,
16 48.20.350, 48.20.360, 48.20.380, 48.20.390, 48.20.393, 48.20.395,
17 48.20.397, 48.20.410, 48.20.411, 48.20.412, 48.20.414, 48.20.416,
18 48.20.420, 48.20.430, 48.20.450, 48.20.460, 48.20.470, 48.20.480,
19 48.20.490, 48.20.500, 48.20.510, 48.20.520, 48.20.530, 48.21.010,
20 48.21.015, 48.21.020, 48.21.030, 48.21.040, 48.21.045, 48.21.050,
21 48.21.060, 48.21.070, 48.21.075, 48.21.080, 48.21.090, 48.21.100,

1 48.21.110, 48.21.120, 48.21.130, 48.21.140, 48.21.141, 48.21.142,
2 48.21.144, 48.21.146, 48.21.150, 48.21.155, 48.21.160, 48.21.180,
3 48.21.190, 48.21.195, 48.21.197, 48.21.200, 48.21.220, 48.21.225,
4 48.21.230, 48.21.235, 48.21.240, 48.21.244, 48.21.250, 48.21.260,
5 48.21.270, 48.21.280, 48.21.290, 48.21.300, 48.21.310, 48.21.320,
6 48.21.330, 48.41.010, 48.41.020, 48.41.030, 48.41.040, 48.41.050,
7 48.41.060, 48.41.070, 48.41.080, 48.41.090, 48.41.100, 48.41.110,
8 48.41.120, 48.41.130, 48.41.140, 48.41.150, 48.41.160, 48.41.170,
9 48.41.180, 48.41.190, 48.41.200, 48.41.210, 48.41.900, 48.41.910,
10 48.44.010, 48.44.011, 48.44.015, 48.44.020, 48.44.023, 48.44.026,
11 48.44.030, 48.44.033, 48.44.035, 48.44.037, 48.44.040, 48.44.050,
12 48.44.055, 48.44.057, 48.44.060, 48.44.070, 48.44.080, 48.44.090,
13 48.44.095, 48.44.100, 48.44.110, 48.44.120, 48.44.130, 48.44.140,
14 48.44.145, 48.44.150, 48.44.160, 48.44.164, 48.44.166, 48.44.170,
15 48.44.180, 48.44.200, 48.44.210, 48.44.212, 48.44.220, 48.44.225,
16 48.44.230, 48.44.240, 48.44.245, 48.44.250, 48.44.260, 48.44.270,
17 48.44.290, 48.44.299, 48.44.300, 48.44.309, 48.44.310, 48.44.320,
18 48.44.325, 48.44.330, 48.44.335, 48.44.340, 48.44.344, 48.44.350,
19 48.44.360, 48.44.370, 48.44.380, 48.44.390, 48.44.400, 48.44.410,
20 48.44.420, 48.44.430, 48.44.440, 48.44.450, 48.44.460, 48.44.470,
21 48.45.005, 48.45.010, 48.45.020, 48.45.030, 48.46.010, 48.46.020,
22 48.46.023, 48.46.027, 48.46.030, 48.46.040, 48.46.060, 48.46.066,
23 48.46.070, 48.46.080, 48.46.090, 48.46.100, 48.46.110, 48.46.120,
24 48.46.130, 48.46.135, 48.46.140, 48.46.150, 48.46.160, 48.46.170,
25 48.46.180, 48.46.200, 48.46.210, 48.46.220, 48.46.225, 48.46.235,
26 48.46.240, 48.46.243, 48.46.245, 48.46.247, 48.46.250, 48.46.260,
27 48.46.270, 48.46.275, 48.46.280, 48.46.285, 48.46.290, 48.46.300,
28 48.46.310, 48.46.320, 48.46.340, 48.46.350, 48.46.355, 48.46.360,
29 48.46.370, 48.46.375, 48.46.380, 48.46.390, 48.46.400, 48.46.410,
30 48.46.420, 48.46.430, 48.46.440, 48.46.450, 48.46.460, 48.46.470,
31 48.46.480, 48.46.490, 48.46.500, 48.46.510, 48.46.520, 48.46.530,
32 48.46.540, 48.46.900, 48.46.905, 48.46.910, 48.46.920, 70.38.015,
33 70.38.025, 70.38.095, 70.38.105, 70.38.111, 70.38.115, 70.38.125,
34 70.38.135, 70.38.155, 70.38.156, 70.38.157, 70.38.158, 70.38.220,
35 70.38.905, 70.38.910, 70.38.911, 70.38.914, 70.38.915, 70.38.916,
36 70.38.918, 70.38.919, 70.38.920, 70.43.010, 70.43.020, 70.43.030,
37 70.170.060, 70.170.070, 70.170.080, 70.170.090, 18.06.190, 18.22.082,
38 18.25.040, 18.29.045, 18.32.215, 18.34.115, 18.35.085, 18.36A.120,
39 18.50.065, 18.52.130, 18.53.035, 18.55.105, 18.57.130, 18.59.070,

1 18.71.090, 18.74.060, 18.78.072, 18.83.170, 18.88.150, 18.108.095,
2 18.138.050, 51.48.280, and 74.09.240; prescribing penalties; providing
3 effective dates; and declaring an emergency.

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

1	PART I - ADMINISTRATION	5
2	PART II - ACCESS TO HEALTH CARE	36
3	PART III - COST CONTAINMENT	44
4	PART IV - LIABILITY REFORM	62
5	PART V - MISCELLANEOUS	67

1 **PART I - ADMINISTRATION**

2 NEW SECTION. **Sec. 101.** LEGISLATIVE FINDINGS. The legislature
3 finds that:

4 (1) The regulation of the health care delivery system is fragmented
5 among several different state agencies;

6 (2) A single regulator, holding office at the pleasure of the
7 governor, is more likely to be effective and accountable to the people
8 than a commission of citizens appointed from time to time by the
9 governor;

10 (3) Some professionally controlled boards adopt rules and take
11 other actions that are not consistent with the public interest, but
12 instead are motivated by the economic self-interest of the
13 professionals they regulate.

14 NEW SECTION. **Sec. 102.** OFFICE OF THE HEALTH CARE COMMISSIONER.

15 (1) There is created an office of health care commissioner. The office
16 shall be vested with all powers and duties granted or transferred to it
17 by this chapter and such other powers and duties as may be authorized
18 by law. The main administrative office of the office shall be located
19 in the city of Olympia. The commissioner may establish administrative
20 facilities in other locations, if deemed necessary for the efficient
21 operation of the office.

22 (2) In accordance with the administrative procedure act, chapter
23 34.05 RCW, the office shall ensure an opportunity for consultation,
24 review, and comment by those involved in the health care system either
25 as consumers or otherwise before the adoption of standards, guidelines,
26 and rules. When the subject matter of such standards, guidelines, and
27 rules are within the subject matter of an advisory committee created
28 under section 110 of this act, the commissioner shall first ask for the
29 advice of the committees except where doing so is impracticable because
30 of time considerations. In such case, the commissioner shall ask the
31 advisory committee for advice and reconsider the decision in light of
32 the advice, making such corrections as are indicated.

33 (3) The commissioner may create administrative divisions within the
34 office as necessary. The commissioner shall have complete charge of and

1 supervisory powers over the office, except where the commissioner's
2 authority is specifically limited by law.

3 (4) The commissioner shall in accordance with chapter 41.06 RCW
4 appoint personnel necessary to carry out the duties of the office.

5 (5) All persons who administer the necessary divisions, offices,
6 bureaus, and programs, and seven additional employees are exempt from
7 the provisions of chapter 41.06 RCW. The officers and employees
8 appointed under this subsection shall be paid salaries to be fixed by
9 the governor in accordance with the procedure established by law for
10 the fixing of salaries for officers exempt from the state civil service
11 law.

12 NEW SECTION. **Sec. 103.** DEFINITIONS. As used in this chapter and
13 chapter 70.-- RCW (sections 201 through 214 of this act):

14 (1) "Office" means office of health care commissioner.

15 (2) "Commissioner" means the health care commissioner of the office
16 of health care commissioner.

17 NEW SECTION. **Sec. 104.** COMMISSIONER OF HEALTH CARE. The
18 executive head and appointing authority of the office shall be the
19 commissioner of health care. The commissioner shall be appointed by,
20 and serve at the pleasure of, the governor. The commissioner shall be
21 paid a salary to be fixed by the governor in accordance with RCW
22 43.03.040.

23 NEW SECTION. **Sec. 105.** COMMISSIONER'S POWERS. In addition to
24 other powers granted the commissioner by law, the commissioner may:

25 (1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to
26 carry out the duties of the office;

27 (2) Appoint advisory committees as required by section 110 of this
28 act and additional advisory committees as may be necessary to carry out
29 the provisions of this chapter. Advisory committees within the office
30 that are not required by section 110 of this act shall be reviewed by
31 the commissioner on a biennial basis to determine if the advisory
32 committee is needed. The criteria specified in RCW 43.131.070 shall be
33 used to determine whether such advisory committee shall be continued;

34 (3) Undertake studies, research, and analysis necessary to carry
35 out the duties of the office;

1 (4) Delegate powers, duties, and functions of the office to
2 employees of the office as the commissioner deems necessary to carry
3 out the duties of the office;

4 (5) Enter into contracts on behalf of the office to carry out the
5 duties of the office;

6 (6) Regulate health care service plans under chapter 43.-- RCW
7 (sections 101 through 148 of this act);

8 (7) Accept gifts, grants, or other funds.

9 NEW SECTION. **Sec. 106.** TRANSFER OF POWERS AND DUTIES FROM OTHER
10 STATE DEPARTMENTS. (1) The following powers and duties of the
11 department of health under the following statutes are hereby
12 transferred to the office of the health care commissioner: RCW
13 43.70.050, 43.70.060, and 43.70.070.

14 (2) The following powers and duties of the office of insurance
15 commissioner under the following statutes are hereby transferred to the
16 office of the health care commissioner: Any powers conferred by Title
17 48 RCW to the extent to which such powers relate to insurance for
18 health care as defined in RCW 70.170.020 (as recodified by this act).
19 However the commissioner may enter into an agreement with the insurance
20 commissioner under which the insurance commissioner would assume, in
21 whole or in part, the solvency compliance or examination functions
22 transferred by this section or conferred by chapter 43.-- RCW (sections
23 101 through 148 of this act).

24 (3) All references to the secretary of health or department of
25 health or insurance commissioner in the Revised Code of Washington
26 shall be construed to mean the health care commissioner or office of
27 health care commissioner when referring to the functions transferred by
28 this section.

29 (4) Where feasible, the health care commissioner, insurance
30 commissioner, department and secretary of health, and the secretary of
31 social and health services shall consult in order that, to the fullest
32 extent possible, agencies concerned with the delivery of health care
33 services may integrate their efforts and endorse policies in common.

34 NEW SECTION. **Sec. 107.** AUTHORITY TO ADMINISTER OATHS AND ISSUE
35 SUBPOENAS--PROVISIONS GOVERNING SUBPOENAS. The commissioner shall have
36 full authority:

1 (1) To administer oaths and take testimony, to issue subpoenas
2 requiring the attendance of witnesses before the commissioner together
3 with all books, memoranda, papers, and other documents, articles, or
4 instruments, and to compel the disclosure by witnesses of all facts
5 known to them relative to the matters under investigation; and

6 (2) To issue subpoenas issued in adjudicative proceedings, which
7 shall be governed by RCW 34.05.588(1). Subpoenas issued in the conduct
8 of investigations required or authorized by other statutory provisions
9 or necessary in the enforcement of other statutory provisions shall be
10 governed by RCW 34.05.588(2).

11 NEW SECTION. **Sec. 108.** FEDERAL LAW AND PREEMPTION. (1) In
12 furtherance of the policy of this state to cooperate with the federal
13 government in health care delivery programs, the office of health care
14 commissioner shall adopt rules as are necessary to entitle this state
15 to participate in federal funds or comply with preemption provisions of
16 federal law unless the same be expressly prohibited by law. Sections
17 or provisions of the laws of this state that may be susceptible to more
18 than one construction shall be interpreted in favor of the construction
19 most likely to satisfy federal laws entitling this state to federal
20 funds or avoiding preemption.

21 (2) To the extent to which it is now or hereafter necessary to
22 obtain waivers of federal laws or regulations to implement any of the
23 duties of the office, the commissioner is hereby empowered to seek such
24 waivers with the written approval of the governor.

25 NEW SECTION. **Sec. 109.** OFFICE OF HEALTH CONSUMER ASSISTANCE
26 CREATED--DUTIES. There is created in the office an office of health
27 care consumer assistance.

28 The office of health care consumer assistance shall establish a
29 state-wide hotline and shall assist and serve as an advocate for
30 consumers.

31 NEW SECTION. **Sec. 110.** APPOINTMENT OF ADVISORY COMMITTEES. (1)
32 The commissioner shall appoint and consult regularly with advisory
33 committees who shall address the following subjects:

- 34 (a) Access to health care;
35 (b) Financing of health care;
36 (c) Health care cost management;

- 1 (d) Data collection and analysis;
2 (e) Risk management, practice parameters, and medical technology;
3 and
4 (f) Long-term care.

5 With the exception of the data committee, which shall be appointed
6 in accord with RCW 70.170.030 (as recodified by this act), each
7 committee shall have five members, all of whom shall be recognized
8 experts with demonstrated practical experience in the fields being
9 addressed.

10 (2) The commissioner shall also appoint a consumer advisory
11 committee to be composed of five consumers broadly representative of
12 the state's population, none of whom shall be health care professionals
13 of any kind, work for health care facilities, programs, or insurers,
14 nor be a member of a family that derives any substantial portion of its
15 income from the provision of health services.

16 (3) With the approval of the commissioner, each committee may,
17 subject to its budget, appoint subcommittees composed of its members or
18 others who shall address topics within the committee's charge and
19 report back to the committee who, in turn, shall pass on the
20 committee's recommendations to the commissioner.

21 (4) While serving as advisory committee members, members are
22 entitled to travel expenses in accordance with RCW 43.03.050 and
23 43.03.060.

24 (5) All committee members shall serve at the pleasure of the
25 commissioner. The chair and vice-chair of each committee shall be
26 designated by the commissioner. Members shall serve one-year terms, up
27 to a maximum of five years on any one committee.

28 **Sec. 111.** RCW 70.170.010 and 1989 1st ex.s. c 9 s 501 are each
29 amended to read as follows:

30 (1) The legislature finds and declares that there is a need for
31 health care information that helps the general public understand health
32 care issues and how they can be better consumers and that is useful to
33 purchasers, payers, and providers in making health care choices and
34 negotiating payments. It is the purpose and intent of this chapter to
35 establish a (~~hospital~~) health care data collection, storage, and
36 retrieval system which supports these data needs and which also
37 provides public officials and others engaged in the development of

1 state health policy the information necessary for the analysis of
2 health care issues.

3 (2) The legislature finds that rising health care costs and access
4 to health care services are of vital concern to the people of this
5 state. It is, therefore, essential that strategies be explored that
6 moderate health care costs and promote access to health care services.

7 (3) The legislature further finds that access to health care is
8 among the state's goals and the provision of such care should be among
9 the purposes of health care providers and facilities. Therefore, the
10 legislature intends that charity care requirements and related
11 enforcement provisions for hospitals be explicitly established.

12 (4) The lack of reliable statistical information about the delivery
13 of charity care is a particular concern that should be addressed. It
14 is the purpose and intent of this chapter to require hospitals to
15 provide, and report to the state, charity care to persons with acute
16 care needs, and to have a state agency both monitor and report on the
17 relative commitment of hospitals to the delivery of charity care
18 services, as well as the relative commitment of public and private
19 purchasers or payers to charity care funding.

20 **Sec. 112.** RCW 70.170.020 and 1989 1st ex.s. c 9 s 502 are each
21 amended to read as follows:

22 As used in this chapter:

23 (1) "~~((Council))~~ Committee" means the health care ~~((access and cost~~
24 ~~control council))~~ data advisory committee created by this chapter.

25 (2) "~~((Department))~~ Office" means ~~((department of health))~~ the
26 office of health care commissioner.

27 (3) "Hospital" means any health care institution which is required
28 to qualify for a license under RCW 70.41.020(2); or as a psychiatric
29 hospital under chapter 71.12 RCW.

30 (4) "~~((Secretary))~~ Commissioner" means ~~((secretary of health))~~
31 health care commissioner.

32 (5) "Charity care" means necessary hospital health care rendered to
33 indigent persons, to the extent that the persons are unable to pay for
34 the care or to pay deductibles or co-insurance amounts required by a
35 third-party payer, as determined by the ~~((department))~~ office.

36 (6) "Sliding fee schedule" means a hospital-determined, publicly
37 available schedule of discounts to charges for persons deemed eligible

1 for charity care; such schedules shall be established after
2 consideration of guidelines developed by the ~~((department))~~ office.

3 (7) "Special studies" means studies which have not been funded
4 through the ~~((department's))~~ office's biennial or other legislative
5 appropriations.

6 (8) "Health care" means all care, goods, or services provided to
7 persons by providers of care intended to ascertain, improve, or
8 maintain the health of such persons. It specifically includes, not by
9 way of limitation, the care, goods, or services of health care
10 practitioners, programs, facilities, or other health care entities
11 subject to the jurisdiction of Washington state law.

12 (9) "Providers" means all health care practitioners, programs,
13 facilities, or other health care entities subject to the jurisdiction
14 of Washington state law.

15 (10) "Health care payers" includes all state health care payment
16 programs as well as all health care service plans and other payers
17 subject to state jurisdiction, including out-of-state group policies
18 with certificates of coverage for residents of the state of Washington.

19 (11) "Reporters" means providers and health care payers as defined
20 in this section.

21 **Sec. 113.** RCW 70.170.030 and 1989 1st ex.s. c 9 s 503 are each
22 amended to read as follows:

23 (1) There is created the health care ~~((access and cost control~~
24 ~~council))~~ data advisory committee within the department of health
25 consisting of the following: The director of the department of labor
26 and industries; the administrator of the health care authority; the
27 secretary of social and health services; the administrator of the basic
28 health plan; a person representing the governor on matters of health
29 policy; the secretary of health; and ~~((one member from the public-at-~~
30 ~~large to be selected by the governor who shall represent individual~~
31 ~~consumers of health care))~~ nine public members composed of the
32 following: One representative of large employers and one
33 representative of small employers appointed by the health care
34 commissioner from lists of at least three names for each position from
35 both a recognized state-wide organization of employers representing a
36 majority of employers and a recognized organization of private employer
37 health care purchasers; one representative of employed persons
38 appointed by the commissioner and selected from a list of not less than

1 three names submitted to the commissioner by an organization, state-
2 wide in scope, which through its affiliates embraces a cross-section
3 and a majority of the organized labor in this state; a physician
4 regulated under chapter 18.57 or 18.71 RCW, appointed by the
5 commissioner and selected from a list of not less than three names
6 submitted to the commissioner by a recognized state-wide organization
7 of physicians representing a cross-section and a majority of practicing
8 physicians in the state; the administrator of a hospital regulated
9 under chapter 70.41 RCW appointed by the commissioner and selected from
10 a list of not less than three names submitted to the commissioner by a
11 state-wide organization representing a majority of hospitals in this
12 state; and three representatives of health care service plans appointed
13 by the commissioner. The ((public)) consumer member shall not have any
14 fiduciary obligation to any health care facility or any financial
15 interest in the provision of health care services. Public members
16 shall serve two-year terms and the commissioner shall designate four of
17 the other initial appointees to serve one-year terms in order to
18 provide staggered terms. A person appointed to fill a vacancy shall be
19 appointed in the same manner as the person they are replacing. Members
20 employed by the state shall serve without pay and participation in the
21 ((council's)) committee's work shall be deemed performance of their
22 employment. The public member shall be compensated in accordance with
23 RCW 43.03.240 and shall be reimbursed for related travel expenses in
24 accordance with RCW 43.03.050 and 43.03.060.

25 (2) A member of the ((council)) committee designated by the
26 governor shall serve as ((chairman)) chair. The ((council)) committee
27 shall elect a ((vice-chairman)) vice-chair from its members biennially.
28 Meetings of the ((council)) committee shall be held as frequently as
29 its duties require. The ((council)) committee shall keep minutes of
30 its meetings and adopt procedures for the governing of its meetings,
31 minutes, and transactions.

32 (3) ((Four)) Eight members shall constitute a quorum, but ((a
33 vacancy on the council shall not impair its power to act)) at least
34 four of that number must be public members. No action of the
35 ((council)) committee shall be effective unless four members concur
36 therein.

37 **Sec. 114.** RCW 70.170.040 and 1989 1st ex.s. c 9 s 504 are each
38 amended to read as follows:

1 (1) In order to advise the ((department)) office and the board of
2 health in preparing executive request legislation and the state health
3 report according to RCW 43.20.050, and, in order to represent the
4 public interest, the ((council)) committee shall monitor and evaluate
5 hospital and related health care services consistent with RCW
6 70.170.010 (as recodified by this act). In fulfilling its
7 responsibilities, the ((council)) committee shall have complete access
8 to all the ((department's)) office's data and information systems.

9 (2) The ((council)) committee shall advise the ((department))
10 office on the ((hospital)) health care data collection system required
11 by this chapter.

12 (3) The ((council)) committee, in addition to participation in the
13 development of the state health report, shall, from time to time,
14 report to the governor and the appropriate committees of the
15 legislature with proposed changes in hospital and related health care
16 services, consistent with the findings in RCW 70.170.010 (as recodified
17 by this act).

18 (4) The ((department)) office may undertake, with advice from the
19 ((council)) committee and within available funds, the following
20 studies:

21 (a) Recommendations regarding health care cost containment, and the
22 assurance of access and maintenance of adequate standards of care;

23 (b) Analysis of the effects of various payment methods on health
24 care access and costs;

25 (c) The utility of the certificate of need program and related
26 health planning process;

27 (d) Methods of permitting the inclusion of advance medical
28 technology on the health care system, while controlling inappropriate
29 use;

30 (e) The appropriateness of allocation of health care services;

31 (f) Professional liabilities on health care access and costs, to
32 include:

33 (i) Quantification of the financial effects of professional
34 liability on health care reimbursement;

35 (ii) Determination of the effects, if any, of nonmonetary factors
36 upon the availability of, and access to, appropriate and necessary
37 basic health services such as, but not limited to, prenatal and
38 obstetrical care; and

1 (iii) Recommendation of proposals that would mitigate cost and
2 access impacts associated with professional liability.

3 The ((department)) office shall report its findings and
4 recommendations to the governor and the appropriate committees of the
5 legislature not later than July 1, 1991.

6 **Sec. 115.** RCW 70.170.050 and 1989 1st ex.s. c 9 s 505 are each
7 amended to read as follows:

8 The ((department)) committee shall have the authority to respond to
9 requests of others for special studies or analysis. The ((department))
10 committee may require such sponsors to pay any or all of the reasonable
11 costs associated with such requests that might be approved, but in no
12 event may costs directly associated with any such special study be
13 charged against the funds generated by the assessment authorized under
14 ((RCW 70.170.080)) this chapter.

15 NEW SECTION. **Sec. 116.** (1) The committee shall fund the creation
16 and maintenance of the data base and studies provided for in RCW
17 70.170.100 and 70.170.110 (as recodified by this act) from a surcharge
18 levied on the data acquired through a process of electronic claims
19 payment and fees paid by users of the information. For surcharges
20 levied on the data, the assessment may not amount to more than four
21 one-hundredths of one percent of the gross billed amount for the
22 service that is the subject matter of the data. Surcharges on the
23 users of data shall be fair and financially sound.

24 (2) Budgetary requirements in excess of income must be financed by
25 a general fund appropriation of the legislature or from other public or
26 private sources.

27 (3) All moneys collected under this section shall be deposited by
28 the state treasurer in the health care data collection account, which
29 is created in the state treasury. This account is the successor to the
30 hospital data collection account, the balance of which shall be placed
31 in the health care data collection account.

32 (4) The committee may also charge, receive, and dispense funds or
33 authorize any contractor or outside sponsor to charge for and reimburse
34 the costs associated with special studies as specified in RCW
35 70.170.050 (as recodified by this act).

36 (5) Any amounts raised by the collection of assessments provided
37 for in this section that are not required to meet appropriations in the

1 omnibus appropriations act for the current fiscal year shall be
2 available to the committee in succeeding years.

3 **Sec. 117.** RCW 70.170.100 and 1990 c 269 s 12 are each amended to
4 read as follows:

5 (1) The ~~((department))~~ committee is responsible for the
6 development, implementation, and custody of a state-wide ~~((hospital))~~
7 health care data system. As part of the design stage for development
8 of the system, the ~~((department))~~ committee shall undertake a needs
9 assessment of the types of, and format for, ~~((hospital))~~ health care
10 data needed by consumers, purchasers, health care payers, ~~((hospitals))~~
11 providers, and state government as consistent with the intent of this
12 chapter. The ~~((department))~~ committee shall identify a set of
13 ~~((hospital))~~ health care data elements and report specifications which
14 satisfy these needs. The ~~((council shall review the design of the data~~
15 ~~system and may direct the department to))~~ committee shall contract with
16 a private vendor ~~((for assistance in the design of the data system))~~ in
17 the state of Washington for all work to be performed under this
18 section. The data elements, specifications, and other ~~((design))~~
19 distinguishing features of this data system shall be ~~((made available~~
20 ~~for public review and comment and shall be))~~ published, with comments,
21 as the ~~((department's))~~ committee's first data plan by ~~((January 1,~~
22 ~~1990))~~ July 1, 1994.

23 (2) ~~((Subsequent to the initial development of the data system as~~
24 ~~published as the department's first data plan, revisions to the data~~
25 ~~system shall be considered through the department's development of a~~
26 ~~biennial data plan, as proposed to, and funded by, the legislature~~
27 ~~through the biennial appropriations process. Costs of data activities~~
28 ~~outside of these data plans except for special studies shall be funded~~
29 ~~through legislative appropriations.~~

30 ~~(3))~~ In designing the state-wide ~~((hospital))~~ health care data
31 system and any data plans, the ~~((department))~~ committee shall identify
32 ~~((hospital))~~ health care data elements relating to both ~~((hospital))~~
33 finances and the use of ~~((services by patients))~~ health care by
34 consumers. Data elements ~~((relating to hospital finances))~~ shall be
35 reported ~~((by hospitals in conformance))~~ as the committee directs, by
36 reporters in conformity with a uniform system of reporting as
37 ~~((specified))~~ established by the ~~((department and shall include data~~
38 ~~elements identifying each hospital's revenues, expenses, contractual~~

1 allowances, charity care, bad debt, other income, total units of
2 inpatient and outpatient services, and other financial information
3 reasonably necessary to fulfill the purposes of this chapter, for
4 hospital activities as a whole and, as feasible and appropriate, for
5 specified classes of hospital purchasers and payers. Data elements
6 relating to use of hospital services by patients shall, at least
7 initially, be the same as those currently compiled by hospitals through
8 inpatient discharge abstracts and reported to the Washington state
9 hospital commission)) committee. The uniform system shall be adopted
10 by reporters. The committee shall permit reporting by electronic
11 transmission or hard copy as is practical and economical to reporters,
12 but shall in no event require that data be aggregated in any form or
13 reported in hard copy to the committee by providers who are
14 practitioners such as physicians and dentists.

15 ((+4)) (3) The state-wide ((hospital)) health care data system
16 shall be uniform in its identification of reporting requirements for
17 ((hospitals)) reporters across the state to the extent that such
18 uniformity is ((necessary)) useful to fulfill the purposes of this
19 chapter. Data reporting requirements may reflect differences ((in
20 hospital size; urban or rural location; scope, type, and method of
21 providing service; financial structure; or other)) that involve
22 pertinent distinguishing ((factors)) features as determined by the
23 committee by rule. So far as ((possible)) is practicable, the data
24 system shall be coordinated with any requirements of the trauma care
25 data registry as authorized in RCW 70.168.090, the federal department
26 of health and human services in its administration of the medicare
27 program, and the state in its role of gathering public health
28 statistics, or any other payer program of consequence, so as to
29 minimize any unduly burdensome reporting requirements imposed on
30 ((hospitals)) reporters.

31 ((+5)) (4) In identifying financial reporting requirements under
32 the state-wide ((hospital)) health care data system, the ((department))
33 committee may require both annual reports and condensed quarterly
34 reports((, so as to achieve both accuracy and timeliness in reporting))
35 from reporters who are not practitioners, such as physicians and
36 dentists, so as to achieve both accuracy and timeliness in reporting,
37 but shall craft the requirements with due regard to the data reporting
38 burdens of reporters who are small businesses.

1 ~~((6))~~ In designing the initial state-wide hospital data system as
2 published in the department's first data plan, the department shall
3 review all existing systems of hospital financial and utilization
4 reporting used in this state to determine their usefulness for the
5 purposes of this chapter, including their potential usefulness as
6 revised or simplified.

7 ~~(7))~~ (5) Until such time as the state-wide ~~((hospital))~~ health
8 care data system and first data plan are developed and implemented and
9 ~~((hospitals))~~ reporters are able to comply with reporting requirements,
10 the ~~((department shall))~~ committee may continue to require hospitals to
11 ~~((continue to submit the hospital financial and patient discharge~~
12 information previously required to be submitted to the Washington state
13 hospital commission. Upon publication of the first data plan,
14 ~~hospitals shall have a reasonable period of time to))~~ comply with ~~((any~~
15 new)) the reporting requirements ~~((and, even in the event that new~~
16 reporting requirements differ greatly from past requirements, shall
17 comply within two years of July 1, 1989)) previously required by this
18 chapter.

19 ~~((8))~~ (6) The ~~((hospital))~~ health care data collected ~~((and)),~~
20 maintained, and studied by the ~~((department))~~ committee shall be
21 available for retrieval in original or processed form to public and
22 private requestors within a reasonable period of time after the date of
23 request. The cost of retrieving data for state officials and agencies
24 shall be funded through the state general appropriation. The cost of
25 retrieving data for individuals and organizations engaged in research
26 or private use of data shall be funded by a fee schedule developed by
27 the ~~((department))~~ committee, which reflects the direct cost of
28 retrieving the data in the requested form.

29 (7) All persons subject to the jurisdiction of the state shall
30 comply with committee requirements established by rule in the
31 acquisition of the data. Persons not subject to the jurisdiction of
32 the state shall be requested to cooperate with the acquisition of the
33 data.

34 (8) The committee shall recommend to the commissioner rules for
35 safeguarding the privacy of patients whose data is reported to the
36 state.

37 (9) The committee shall also promulgate guidelines regarding the
38 collection and analysis of the data regarding the quality of the data
39 and quality and objectivity of analysis. The committee may require

1 disclosures to recipients of data or analysis that clearly identifies
2 the assumptions and limitations of either.

3 **Sec. 118.** RCW 70.170.110 and 1989 1st ex.s. c 9 s 511 are each
4 amended to read as follows:

5 ~~((The department shall provide, or may contract with a private~~
6 ~~entity to provide, hospital analyses and reports consistent with the~~
7 ~~purposes of this chapter. Prior to release, the department shall~~
8 ~~provide affected hospitals with an opportunity to review and comment on~~
9 ~~reports which identify individual hospital data with respect to~~
10 ~~accuracy and completeness, and otherwise shall focus on aggregate~~
11 ~~reports of hospital performance.))~~ The committee may contract with a
12 private vendor in the state of Washington to provide studies or reports
13 that the committee chooses to conduct, consistent with the purposes of
14 this chapter. The commissioner may perform the studies and any other
15 studies, consistent with the purposes of this chapter. The studies or
16 reports shall be funded out of the health care data collection account
17 in the state treasury. These reports ((shall)) may include:

18 (1) Consumer guides on purchasing ~~((hospital))~~ or consuming health
19 care ((services)) and publications providing verifiable and useful
20 comparative information to ~~((consumers on hospitals and hospital))~~ the
21 public on health care services;

22 (2) Reports for use by classes of purchasers, health care payers,
23 and providers as specified for content and format in the state-wide
24 data system and data plan; ((and))

25 (3) Reports on relevant ~~((hospital))~~ health care policy ((issues))
26 including the distribution of hospital charity care obligations among
27 hospitals; absolute and relative rankings of Washington and other
28 states, regions, and the nation with respect to expenses, net revenues,
29 and other key indicators; ((hospital)) provider efficiencies; and the
30 effect of medicare, medicaid, and other public health care programs on
31 rates paid by other purchasers of ((hospital)) health care; and

32 (4) Other reports the advisory committee believes will assist the
33 public in understanding the prudent and cost-effective use of the
34 health care delivery system.

35 NEW SECTION. **Sec. 119.** ADMINISTRATION. (1) The commissioner
36 shall adopt rules on uniform billing forms for all health care
37 providers subject to state law that shall be accepted by all health

1 care payers and service plans, public or private, subject to state law.
2 To the greatest extent possible, the commissioner shall use, in either
3 paper or electronic format, either the health care financing
4 administration (HCFA) 1500 form, or its successor, or the uniform
5 billing (UB) 82 form, or its successor. The commissioner may add
6 additional data items to the forms.

7 (2) The commissioner may by rule require payers who are subject to
8 state jurisdiction to adopt reimbursement systems, such as resource-
9 based relative value scale for practitioners and diagnostic-related
10 groups for facilities, where the commissioner finds that the adoption
11 of the systems would reduce administrative costs and be fair to
12 providers. However, under no circumstances shall the commissioner fix,
13 set, peg, restrict, or in any way set the amounts of reimbursement to
14 be used in or produced by the systems.

15 NEW SECTION. **Sec. 120.** HEALTH CARE SERVICE PLANS--DEFINITIONS.
16 For the purposes of chapter 43.-- RCW (sections 101 through 148 of this
17 act), the following definitions shall apply:

18 (1) "Health care services" means all care, goods, or services
19 provided to persons by providers of care intended to ascertain,
20 improve, or maintain the health of the persons. It specifically
21 includes the care, goods, or services of health care practitioners,
22 programs, facilities, or other health care entities subject to the
23 jurisdiction of Washington state law.

24 (2) "Providers" means all health care practitioners, programs,
25 facilities, or other health care entities subject to the jurisdiction
26 of Washington state.

27 (3) "Health care service plan" or "service plan" means a
28 corporation, cooperative group, or association, that accepts prepayment
29 for health care services from or for the benefit of persons or groups
30 of persons as consideration for providing the persons with health care
31 services or indemnity against expenditures for health care expenses.

32 (4) "Participating provider" means a provider that has contracted
33 in writing with a service plan to accept payment from, and to look
34 solely to, such service plan, according to the terms of the subscriber
35 contract for health care services rendered to a person who has
36 previously paid, or on whose behalf prepayment has been made, to the
37 service plan for the services.

1 (5) "Enrolled participant" means a person or group of persons who
2 have entered into a contractual arrangement or on whose behalf a
3 contractual arrangement has been entered into with a service plan to
4 receive health care services.

5 (6) "Uncovered expenditures" means the costs to the service plan
6 for health care services that are the obligation of the service plan
7 for which an enrolled participant would also be liable in the event of
8 the service plan's insolvency and for which no alternative arrangements
9 have been made as provided in this chapter. The term does not include
10 expenditures for covered services when a provider has agreed not to
11 bill the enrolled participant even though the provider is not paid by
12 the service plan, or for services that are guaranteed, insured, or
13 assumed by a person or organization other than the service plan.

14 (7) "Copayment" means an amount specified in a group or individual
15 contract that is an obligation of an enrolled participant for a
16 specific service that is not fully prepaid.

17 (8) "Deductible" means the amount an enrolled participant is
18 responsible to pay before the service plan begins to pay the costs
19 associated with treatment.

20 (9) "Group contract" means a contract for health care services that
21 by its terms limits eligibility to members of a specific group. The
22 group contract may include coverage for dependents.

23 (10) "Individual contract" means a contract for health care
24 services issued to and covering an individual. An individual contract
25 may include dependents.

26 (11) "Carrier" means a service plan, insurer, or other entity
27 responsible for the payment of benefits or provision of services under
28 a group or individual contract.

29 (12) "Replacement coverage" means the benefits provided by a
30 succeeding carrier.

31 (13) "Insolvent" or "insolvency" means that the organization has
32 been declared insolvent and is placed under an order of liquidation by
33 a court of competent jurisdiction.

34 (14) "Fully subordinated debt" means those debts that meet the
35 requirements of section 136 of this act and are recorded as equity.

36 (15) "Net worth" means the excess of total admitted assets as
37 defined in RCW 48.12.010 over total liabilities but the liabilities
38 shall not include fully subordinated debt.

1 NEW SECTION. **Sec. 121.** HEALTH CARE SERVICE CONTRACTORS, HEALTH
2 MAINTENANCE ORGANIZATIONS, AND DISABILITY INSURERS. (1) All disability
3 insurers, health care service contractors, health maintenance
4 organizations, or entities doing business under chapter 48.45 RCW the
5 day before the effective date of this section are deemed to be
6 registered as service plans under sections 120 through 148 of this act
7 on the effective date of this section.

8 (2) Contracts, agreements, and forms lawfully in use as of the
9 effective date of this section are deemed approved under this chapter.
10 However, the commissioner may by rule require that the contracts,
11 agreements, and forms be amended to conform with sections 120 through
12 148 of this act.

13 (3) Out-of-state group contracts under which certificates of
14 coverage shall be delivered in this state are subject to the rule-
15 making authority of the commissioner, which includes prohibiting the
16 out-of-state group contracts.

17 NEW SECTION. **Sec. 122.** REGISTRATION BY SERVICE PLANS REQUIRED--
18 PENALTY. (1) No person may in this state, by mail or otherwise, act as
19 or hold himself or herself out to be a service plan, as defined herein
20 without being duly registered with the commissioner. At the written
21 option of the applicant, such service plan may instead refer to itself
22 as a health maintenance organization.

23 (2) A violation of this section is a gross misdemeanor.

24 (3) "Person", for the purposes of this section, includes
25 corporations, cooperative groups, or associations as included in
26 section 120(3) of this act.

27 NEW SECTION. **Sec. 123.** REGISTRATION WITH COMMISSIONER--FEE. (1)
28 Every service plan that enters into agreements that require prepayment
29 for health care services shall register with the insurance commissioner
30 on forms to be prescribed and provided by the commissioner. The
31 registrants shall state their name, address, type of organization, area
32 of operation, type or types of health care services provided, and other
33 information as may reasonably be required by the commissioner and shall
34 file with the registration a copy of all contracts being offered and a
35 schedule of all rates charged. No registrant shall change rates,
36 modify a contract, or offer a new contract, until he or she has filed

1 a copy of the changed rate schedule, modified contract, or new contract
2 with the commissioner.

3 (2) The commissioner shall charge a fee of ten thousand dollars for
4 the filing of each original registration statement and may require each
5 registrant to file a current reregistration statement annually
6 thereafter.

7 (3) An application not disapproved within one hundred eighty days
8 shall be deemed approved. The notice of disapproval shall contain all
9 the grounds that the commissioner could rely on in making the
10 disapproval.

11 NEW SECTION. **Sec. 124.** REFUSAL TO REGISTER SERVICE PLAN IF NAME
12 CONFUSING WITH EXISTING SERVICE PLAN OR INSURANCE COMPANY. The
13 commissioner shall refuse to accept the registration of a corporation,
14 cooperative group, or association seeking to act as a service plan if,
15 in his or her discretion, the commissioner finds that the name of the
16 corporation, cooperative group, or association would be confused with
17 the name of an existing registered service plan or authorized insurance
18 company.

19 NEW SECTION. **Sec. 125.** CERTIFICATE OF REGISTRATION NOT AN
20 ENDORSEMENT--DISPLAY IN SOLICITATION PROHIBITED. The granting of a
21 certificate of registration to a service plan is permissive only, and
22 does not constitute an endorsement by the commissioner of a person or
23 thing related to the service plan. No person may advertise or display
24 a certificate of registration for use as an inducement in a
25 solicitation.

26 NEW SECTION. **Sec. 126.** EXAMINATION OF SERVICE PLANS--DUTIES OF
27 SERVICE PLAN, POWERS OF COMMISSIONER--INDEPENDENT AUDIT REPORTS. (1)
28 The commissioner may make an examination of the operations of a service
29 plan as often as necessary in order to carry out the purposes of this
30 chapter.

31 (2) Every service plan shall submit its books and records relating
32 to its operation for financial condition and market conduct
33 examinations and in every way facilitate the examinations. For the
34 purpose of examinations, the commissioner may issue subpoenas,
35 administer oaths, and examine the officers and principals of the
36 service plan.

1 (3) The commissioner may elect to accept and rely on audit reports
2 made by an independent certified public accountant for the service plan
3 in the course of that part of the commissioner's examination covering
4 the same general subject matter as the audit. The commissioner may
5 incorporate the audit report in the report of the examination.

6 (4) Whenever a service plan applies for initial admission, the
7 commissioner may make, or cause to be made, an examination of the
8 applicant's business and affairs. Whenever such an examination is
9 made, the provisions of chapter 48.03 RCW that are not inconsistent
10 with this chapter are applicable. In lieu of making an examination
11 himself or herself the commissioner may, in the case of a foreign
12 service plan, accept an examination report of the applicant by the
13 regulatory official in the state of domicile of the service plan.

14 NEW SECTION. **Sec. 127.** REVOCATION, SUSPENSION, REFUSAL OF
15 REGISTRATION--HEARING--CEASE AND DESIST ORDERS, INJUNCTIVE ACTION--
16 GROUNDS. The commissioner may, subject to a hearing under chapter
17 34.05 RCW, if one is demanded, revoke, suspend, or refuse to accept or
18 renew registration from a service plan, or may issue a cease and desist
19 order, or bring an action in a court of competent jurisdiction to
20 enjoin a service plan from doing further business in this state, if the
21 service plan:

22 (1) Fails to comply with a provision of this chapter or a proper
23 order or rule of the commissioner.

24 (2) Is found by the commissioner to be in such financial condition
25 that its further transaction of business in this state would jeopardize
26 the payment of claims and refunds to subscribers.

27 (3) Has refused to remove or discharge a director or officer who
28 has been convicted of a crime involving fraud, dishonesty, or like
29 moral turpitude, after written request by the commissioner for the
30 removal, and expiration of a reasonable time as specified in the
31 request.

32 (4) Usually compels claimants under contracts either to accept less
33 than the amount due them or to bring suit against the service plan to
34 secure full payment of the amount due.

35 (5) Is affiliated with and under the same general management, or
36 interlocking directorate, or ownership as another service plan that
37 operates in this state without being registered, except as is permitted
38 by this chapter.

1 (6) Refuses to be examined, or if its directors, officers,
2 employees, or representatives refuse to submit to examination or to
3 produce accounts, records, and files for examination by the
4 commissioner if required, or refuses to perform a legal obligation
5 relative to the examination.

6 (7) Fails to pay a final judgment rendered against the service plan
7 in this state upon a contract, bond, recognizance, or undertaking
8 issued or guaranteed by it, within thirty days after the judgment
9 became final or within thirty days after time for taking an appeal has
10 expired, or within thirty days after dismissal of an appeal before
11 final determination, whichever date is the later.

12 (8) Is found by the commissioner, after investigation or upon
13 receipt of reliable information, to be managed by persons, whether by
14 its directors, officers, or by other means, who are incompetent or
15 untrustworthy or so lacking in health care contracting or related
16 managerial experience as to make the operation hazardous to the
17 subscribing public; or that there is good reason to believe it is
18 affiliated directly or indirectly through ownership, control, or other
19 business relations, with a person or persons whose business operations
20 are or have been marked, to the detriment of contract holders or
21 stockholders, or investors or creditors or subscribers or of the
22 public, by bad faith or by manipulation of assets, or of accounts, or
23 of reinsurance.

24 NEW SECTION. **Sec. 128.** NOTICE OF SUSPENSION, REVOCATION, OR
25 REFUSAL TO BE GIVEN SERVICE PLAN--AUTHORITY OF AGENTS. Upon the
26 suspension, revocation, or refusal of a service plan's registration,
27 the commissioner shall give notice to the service plan and shall
28 suspend, revoke, or refuse the authority of its agents to represent the
29 service plan in this state and give notice of the suspension,
30 revocation, or refusal to the agents.

31 NEW SECTION. **Sec. 129.** FINE IN ADDITION TO OR IN LIEU OF
32 SUSPENSION, REVOCATION, OR REFUSAL. After hearing or upon stipulation
33 by the registrant and in addition to or in lieu of the suspension,
34 revocation, or refusal to renew a registration of a service plan the
35 commissioner may levy a fine against the party involved for each
36 offense in an amount not less than fifty dollars and not more than ten
37 thousand dollars. The order levying the fine shall specify the period

1 within which the fine must be fully paid. The period shall not be less
2 than fifteen nor more than thirty days from the date of the order. If
3 a service plan fails to pay a fine when due, the commissioner shall
4 revoke the registration of the registrant, if not already revoked, and
5 the fine shall be recovered in a civil action brought on behalf of the
6 commissioner by the attorney general. A fine collected under civil
7 action shall be paid by the commissioner to the state treasurer for
8 deposit in the general fund.

9 NEW SECTION. **Sec. 130.** UNLAWFUL ACTS. (1) No person may
10 knowingly file with a public official or knowingly make, publish, or
11 disseminate a financial statement of a service plan that does not
12 accurately state the service plan's financial condition.

13 (2) No person may knowingly make, publish, or disseminate false,
14 deceptive, or misleading representations or advertising in the conduct
15 of the business of a service plan, or relative to the business of a
16 service plan, or to a person engaged in the business of a service plan.

17 (3) No person may knowingly make, issue, or circulate, or cause to
18 be made, issued, or circulated, a misrepresentation of the terms of a
19 contract, or the benefits or advantages promised by a contract, or use
20 the name or title of a contract or class of contract misrepresenting
21 the nature of the contract.

22 (4) No service plan nor a person representing a service plan may by
23 misrepresentation or misleading comparisons induce or attempt to induce
24 a member of a service plan to terminate or retain a contract or
25 membership.

26 (5) Violation of this section is a gross misdemeanor.

27 NEW SECTION. **Sec. 131.** FUTURE DIVIDENDS OR REFUNDS--WHEN
28 PERMISSIBLE. No service plan nor an individual acting on behalf of a
29 service plan may guarantee or agree to the payment of future dividends
30 or future refunds of unused charges or savings in a specific or
31 approximate amounts or percentages in respect to a contract being
32 offered to the public, except in a group contract containing an
33 experience refund provision.

34 NEW SECTION. **Sec. 132.** FINANCIAL INTERESTS OF SERVICE PLANS,
35 RESTRICTED--EXCEPTIONS, REGULATIONS. (1) No person having authority in
36 the investment or disposition of the funds of a service plan and no

1 officer or director of a service plan may accept, except for the
2 service plan, or be the beneficiary of a fee, brokerage, gift,
3 commission, or other emolument because of a sale of health care service
4 agreements or an investment, loan, deposit, purchase, sale, payment, or
5 exchange made by or for the service plan, or be pecuniarily interested
6 in the plan in any capacity; except, that such a person may procure a
7 loan from the service plan directly upon approval by two-thirds of its
8 directors and upon the pledge of securities eligible for the investment
9 of the service plan's funds under this chapter.

10 (2) The commissioner may, by rule or hearing, from time to time,
11 define and permit additional exceptions to the prohibition contained in
12 subsection (1) of this section solely to enable payment of reasonable
13 compensation to a director who is not otherwise an officer or employee
14 of the service plan, or to a corporation or firm in which the director
15 is interested, for necessary services performed or sales or purchases
16 made to or for the service plan in the ordinary course of the service
17 plan's business and in the usual private professional or business
18 capacity of the director or the corporation or firm.

19 NEW SECTION. **Sec. 133.** IMMUNITY FROM LIBEL OR SLANDER. There is
20 no liability on the part of, and no cause of action shall arise
21 against, the commissioner, the commissioner's agents, or members of the
22 commissioner's staff, or against a service plan, its authorized
23 representatives, its agents, its employees, furnishing to the service
24 plan information as to reasons for cancellation or refusal to issue or
25 renew, for libel or slander on the basis of a statement made by the
26 commissioner, the commissioner's agents, or members of the
27 commissioner's staff in a written notice of cancellation or refusal to
28 issue or renew, or in other communications, oral or written, specifying
29 the reasons for cancellation or refusal to issue or renew or the
30 providing of information pertaining to the cancellation, refusal, or
31 nonrenewal, or for statements made or evidence submitted in a hearing
32 conducted in connection with the action.

33 NEW SECTION. **Sec. 134.** UNDERWRITING OF INDEMNITY BY INSURANCE
34 POLICY, BOND, SECURITIES, OR CASH DEPOSIT. (1) If health care services
35 that are promised in an agreement are not to be performed by the
36 service plan or by a participating provider, provision shall be made

1 for reimbursement or indemnity of the enrolled participants in the
2 event of the insolvency of the service plan.

3 (2) The reimbursement or indemnity shall either be underwritten by:

4 (a) An insurance company authorized to write casualty or other
5 appropriate insurance in the state; or

6 (b) Guaranteed by a surety company authorized to do business in
7 this state; or

8 (c) Guaranteed by a deposit of cash or securities eligible for
9 investment by insurers under chapter 48.13 RCW, with the commissioner,
10 as provided in this section.

11 (3)(a) If the reimbursement or indemnity is underwritten by an
12 insurance company, the contract or policy of insurance may designate
13 the service plan as the named insured, but shall be for the benefit of
14 the persons who have previously paid, or on whose behalf prepayment has
15 been made, for the health care services.

16 (b) If the reimbursement or indemnity is guaranteed by a surety
17 company, the surety bond shall designate the state of Washington as the
18 named obligee, but the bond shall be for the benefit of the persons who
19 have previously paid, or on whose behalf prepayment has been made, for
20 such health care services, and shall be in an amount as the
21 commissioner shall direct, but in no event in a sum greater than the
22 amount of one hundred fifty thousand dollars or the amount necessary to
23 cover incurred but unpaid reimbursement or indemnity benefits as
24 reported in the last annual statement filed with the commissioner, and
25 adjusted to reflect known or anticipated increases or decreases during
26 the ensuing year, plus an amount of unearned prepayments applicable to
27 reimbursement or indemnity benefits satisfactory to the commissioner,
28 whichever amount is greater.

29 (c) A copy of the insurance policy or surety bond, as the case may
30 be, and a modification of the policy or bond, shall be filed with the
31 commissioner.

32 (d) If the reimbursement or indemnity is guaranteed by a deposit of
33 cash or securities, the deposit shall be in an amount as the
34 commissioner shall compute in the same manner as directed in (b) of
35 this subsection. The cash or security deposit shall be held in trust
36 by the insurance commissioner and shall be for the benefit of the
37 enrolled participants.

1 NEW SECTION. **Sec. 135.** FINANCIAL FAILURE--SUPERVISION OF
2 COMMISSIONER--PRIORITY OF DISTRIBUTION OF ASSETS. (1) Rehabilitation,
3 liquidation, or conservation of a service plan shall be deemed to be
4 the rehabilitation, liquidation, or conservation of an insurance
5 company and shall be conducted under the supervision of the
6 commissioner under the law governing the rehabilitation, liquidation,
7 or conservation of insurance companies. The commissioner may apply for
8 an order directing the commissioner to rehabilitate, liquidate, or
9 conserve a service plan upon one or more of the grounds set out in RCW
10 48.31.030, 48.31.050, and 48.31.080.

11 (2) For purpose of determining the priority of distribution of
12 general assets, claims of enrolled participants and enrolled
13 participants' beneficiaries shall have the same priority as established
14 by RCW 48.31.280 for policyholders and beneficiaries of insureds of
15 insurance companies. If an enrolled participant is liable to a
16 provider for services provided under and covered by the health care
17 plan, that liability shall have the status of an enrolled participant
18 claim for distribution of general assets.

19 (3) A provider who is obligated by statute or agreement to hold
20 enrolled participants harmless from liability for services provided
21 under and covered by a health care plan has a priority of distribution
22 of the general assets immediately following that of enrolled
23 participants and enrolled participants' beneficiaries as described in
24 this section, and immediately preceding the priority of distribution
25 described in chapter 48.31 RCW.

26 NEW SECTION. **Sec. 136.** MINIMUM NET WORTH--REQUIREMENT TO
27 MAINTAIN--DETERMINATION OF AMOUNT. (1)(a) Every service plan must have
28 a net worth of five hundred thousand dollars at the time of initial
29 registration under this chapter. The commissioner is authorized to
30 establish standards for reviewing a service plan's financial integrity
31 if the net worth falls beneath that amount.

32 (b) A service plan that fails to maintain the required net worth
33 shall cure that defect in compliance with an order of the commissioner
34 rendered in conformity with rules adopted under chapter 34.05 RCW. The
35 commissioner may take appropriate action to assure that the continued
36 operation of the service plan will not be hazardous to its enrolled
37 participants.

1 (2) A service plan registered before September 1, 1993, must
2 achieve the net worth requirement required in subsection (1) of this
3 section by July 1, 1994.

4 (3)(a) In determining net worth, no debt may be considered fully
5 subordinated unless the subordination is in a form acceptable to the
6 commissioner. An interest obligation relating to the repayment of a
7 subordinated debt must be similarly subordinated.

8 (b) The interest expenses relating to the repayment of a fully
9 subordinated debt shall not be considered uncovered expenditures.

10 (c) A subordinated debt incurred by a note meeting the requirement
11 of this section, and otherwise acceptable to the commissioner, shall
12 not be considered a liability, and shall be recorded as equity.

13 (4) Every service plan shall, in determining liabilities, include
14 an amount estimated in the aggregate to provide for unearned premiums
15 and for the payment of all claims for health care expenditures that
16 have been incurred, whether reported or unreported, that are unpaid and
17 for which the organization is or may be liable, and to provide for the
18 expense of adjustment or settlement of the claims. Liabilities shall
19 be computed in accordance with rules adopted by the commissioner upon
20 reasonable consideration of the ascertained experience and character of
21 the service plan.

22 (5) All income from reserves on deposit with the commissioner shall
23 belong to the depositing service plan and shall be paid to the plan as
24 the income becomes available.

25 (6) Funded reserve required by this chapter shall be considered an
26 asset of the service plan in determining the organization's net worth.

27 (7) A service plan that has made a securities deposit with the
28 commissioner may, at its option, withdraw the securities deposit or a
29 part of the deposit after first having deposited or provided in lieu of
30 the deposit an approved surety bond, a deposit of cash or securities,
31 or combination of these or other deposits of equal amount and value to
32 that withdrawn. Securities and surety bonds are subject to approval by
33 the commissioner before being substituted.

34 NEW SECTION. **Sec. 137.** LIMITED HEALTH CARE SERVICE--UNCOVERED
35 EXPENDITURES. (1) For purposes of this section only, "limited health
36 care service" means dental care services, vision care services, mental
37 health services, chemical dependency services, pharmaceutical services,
38 and other services as may be determined by the commissioner to be

1 limited health services. "Limited health services" does not include
2 hospital, medical, surgical, emergency, or out-of-area services, except
3 as those services are provided incidentally to the limited health
4 services set forth in this subsection.

5 (2) For purposes of this section only, a "limited service plan"
6 means a service plan that offers one and only one limited health care
7 service.

8 (3) Uncovered expenditures of limited service plans that have had
9 a certificate of registration for less than three years shall be either
10 insured or guaranteed by a foreign or domestic carrier admitted in the
11 state of Washington or by another carrier acceptable to the
12 commissioner. All limited service plans shall also deposit with the
13 commissioner one-half of one percent of their projected premium for the
14 next year in cash, approved surety bond, securities, or other form
15 acceptable to the commissioner.

16 (4) Uncovered expenditures of limited service plans that have had
17 a certificate of registration for three years or more shall be assured
18 by depositing with the insurance commissioner twenty-five percent of
19 their last year's uncovered expenditures as reported to the
20 commissioner and adjusted to reflect any anticipated increases or
21 decreases during the ensuing year plus an amount for unearned
22 prepayments; in cash, approved surety bond, securities, or other form
23 acceptable to the commissioner. Compliance with subsection (3) of this
24 section constitutes compliance with this requirement.

25 (5) Limited service plans need not comply with sections 128, 129,
26 203, 205, and 206 of this act.

27 NEW SECTION. **Sec. 138.** INSOLVENCY--COMMISSIONER'S DUTIES--
28 PARTICIPANTS' OPTIONS--ALLOCATION OF COVERAGE. (1)(a) In the event of
29 insolvency of a service plan and upon order of the commissioner, all
30 other service plans then having active enrolled participants under a
31 group plan with the affected agreement holder that participated in the
32 enrollment process with the insolvent service plan at a group's last
33 regular enrollment period shall offer the eligible enrolled
34 participants of the insolvent service plan the opportunity to enroll in
35 an existing group plan without medical underwriting during a thirty-day
36 open enrollment period, commencing on the date of the insolvency.
37 Eligible enrolled participants are not subject to preexisting condition
38 limitations except to the extent that a waiting period for a

1 preexisting condition has not been satisfied under the insolvent
2 service plan's group plan.

3 (b) An open enrollment is not required where the agreement holder
4 participates in a self-insured, self-funded, or other health plan
5 exempt from commissioner rule, unless the plan administrator and
6 agreement holder voluntarily agree to offer a simultaneous open
7 enrollment and extend coverage under the same enrollment terms and
8 conditions as are applicable to carriers under this section and rules
9 adopted under this section. If an exempt plan was offered during the
10 last regular open enrollment period, then the carrier may offer the
11 agreement holder the same coverage as any self-insured plan or plans
12 offered by the agreement holder without regard to coverage, benefit, or
13 provider requirements mandated by this chapter for the duration of the
14 current agreement period.

15 (c) In the event of insolvency of a service plan and if no other
16 service plan has active enrolled participants under a group plan with
17 the affected agreement holder, or if the commissioner determines that
18 the other service plans lack sufficient health care delivery resources
19 to assure that health services will be available or accessible to all
20 of the group enrollees of the insolvent service plan, then the
21 commissioner shall allocate equitably the insolvent service plan's
22 group agreements for these groups among all service plans that operate
23 within a portion of the insolvent service plan's area, taking into
24 consideration the health care delivery resources of each service plan.
25 Each service plan to which a group or groups are allocated shall offer
26 the agreement holder, without medical underwriting, the service plan's
27 existing coverage that is most similar to each group's coverage with
28 the insolvent service plan at rates determined in accordance with the
29 successor service plan's existing rating methodology. The eligible
30 enrolled participants are not subject to preexisting condition
31 limitations except to the extent that a waiting period for a
32 preexisting condition has not been satisfied under the insolvent
33 service plan's group plan. An offering by a service plan is not
34 required where the agreement holder participates in a self-insured,
35 self-funded, or other health plan exempt from commissioner rule. The
36 service plan may offer the agreement holder the same coverage as a
37 self-insured plan or plans offered by the agreement holder without
38 regard to coverage, benefit, or provider requirements mandated by this
39 chapter for the duration of the current agreement period.

1 (2) The commissioner shall also allocate equitably the insolvent
2 service plan's nongroup enrolled participants who are unable to obtain
3 coverage among all service plans that operate within a portion of the
4 insolvent service plan's service area, taking into consideration the
5 health care delivery resources of the service plan. Each service plan
6 to which nongroup enrolled participants are allocated shall offer the
7 nongroup enrolled participants the service plan's existing
8 comprehensive conversion plan, without additional medical underwriting,
9 at rates determined in accordance with the successor service plan's
10 existing rating methodology. The eligible enrolled participants are
11 not subject to preexisting condition limitations except to the extent
12 that a waiting period for a preexisting condition has not been
13 satisfied under the insolvent service plan's plan.

14 (3) Agreements covering participants allocated under subsections
15 (1)(b) and (2) of this section to service plans under this section may
16 be rerated after ninety days of coverage.

17 (4) A limited service plan shall not be required to offer services
18 other than its one limited health care service to an enrolled
19 participant of an insolvent service plan.

20 NEW SECTION. **Sec. 139.** CONTRACTS FOR SERVICES--EXAMINATION OF
21 CONTRACT FORMS BY COMMISSIONER--GROUNDS FOR DISAPPROVAL--LIABILITY OF
22 PARTICIPANT. (1) A service plan may enter into contracts with or for
23 the benefit of persons or groups of persons that require prepayment for
24 health care services by or for such persons in consideration of the
25 service plan providing one or more health care services to the persons.
26 The activity is not subject to the laws relating to insurance.

27 (2) The commissioner may on examination, subject to the right of
28 the service plan to demand and receive a hearing under chapter 34.05
29 RCW, disapprove a contract form for any of the following grounds:

30 (a) If it contains or incorporates by reference an inconsistent,
31 ambiguous or misleading clause, or exceptions and conditions that
32 unreasonably or deceptively affect the risk purported to be assumed in
33 the general coverage of the contract;

34 (b) If it has a title, heading, or other indication of its
35 provisions that is misleading;

36 (c) If purchase of health care services under the plan is being
37 solicited by deceptive advertising;

1 (d) If the benefits provided in the plan are unreasonable in
2 relation to the amount charged for the contract;

3 (e) If the plan contains unreasonable restrictions on the treatment
4 of patients;

5 (f) If the plan violates a provision of this chapter; or

6 (g) If the plan fails to conform to rules adopted by the
7 commissioner under chapter 34.05 RCW.

8 (3)(a) Every contract between a service plan and a participating
9 provider of health care services must be in writing and shall state
10 that in the event the service plan fails to pay for health care
11 services as provided in the contract, the enrolled participant shall
12 not be liable to the provider for sums owed by the service plan. Every
13 contract shall provide that this requirement shall survive termination
14 of the contract.

15 (b) No participating provider, agent, trustee, or assignee may
16 maintain an action against an enrolled participant to collect sums owed
17 by the service plan.

18 (4) A form submitted for approval is deemed approved if not
19 disapproved by the commissioner within thirty days with the reasons
20 stated in writing to the service plan.

21 (5) Subject to the right of the service plan to demand and receive
22 a hearing under chapter 34.05 RCW, the commissioner may disapprove the
23 contract form if it is in violation of this chapter or if it fails to
24 conform to minimum provisions or standards required by the commissioner
25 by rule under chapter 34.05 RCW.

26 NEW SECTION. **Sec. 140.** PROVIDER CONTRACTS TO BE FILED WITH
27 COMMISSIONER. (1) Forms of contracts between service plans and
28 participating providers must be filed with the insurance commissioner
29 prior to use.

30 (2) A contract form not disapproved within fifteen days of filing
31 is deemed approved, except that the commissioner may extend the
32 approval period an additional fifteen days upon giving notice before
33 the expiration of the initial fifteen-day period. The commissioner
34 may, at any time, approve the contract form for immediate use.
35 Approval may be subsequently withdrawn for cause occurring after the
36 approval or deemed approval.

37 (3) Subject to the right of the service plan to demand and receive
38 a hearing under chapter 34.05 RCW, the commissioner may disapprove the

1 contract form if it is in violation of this chapter or if it fails to
2 conform to minimum provisions or standards required by the commissioner
3 by rule under chapter 34.05 RCW.

4 NEW SECTION. **Sec. 141.** MASTER LISTS OF SERVICE PLAN'S
5 PARTICIPATING PROVIDERS--FILING WITH COMMISSIONER--NOTICE OF
6 TERMINATION OR PARTICIPATION. Every service plan shall file with its
7 annual statement to the commissioner a master list of the participating
8 providers with whom or with which the service plan has executed
9 contracts of participation, certifying that each participating provider
10 has executed the contract of participation. The service plan shall on
11 the first day of each month notify the commissioner in writing in case
12 of the termination of a contract, and of participating providers who
13 have entered into a participating contract during the preceding month.

14 NEW SECTION. **Sec. 142.** SERVICE PLAN TO FILE WITH COMMISSIONER
15 LISTS OF ITS PARTICIPANTS--NOTICE OF TERMINATION. Every service plan
16 shall file with the commissioner lists of the participants with whom or
17 with which the service plan has executed contracts of participation,
18 certifying that each participant has executed a contract of
19 participation. The service plan shall immediately notify the
20 commissioner in writing in case of the termination of a contract.

21 NEW SECTION. **Sec. 143.** MODIFICATION OF BASIS OF AGREEMENT,
22 ENDORSEMENT REQUIRED. If an individual health care service agreement
23 is issued on a basis other than as applied for, an endorsement setting
24 forth the modification must accompany and be attached to the agreement.
25 No agreement is effective unless the endorsement is signed by the
26 applicant, and a signed copy of the agreement returned to the service
27 plan.

28 NEW SECTION. **Sec. 144.** TERMINATION, RENEWAL, AND OTHER FEATURES.
29 (1) The commissioner may adopt rules regulating the enrollment,
30 renewal, and termination processes for all enrolled participants.
31 (2) The commissioner may adopt rules establishing the rights of
32 enrolled participants enrolling lawful dependents under their
33 coverages.

1 NEW SECTION. **Sec. 145.** ANNUAL FINANCIAL STATEMENT--FILING--
2 PENALTY FOR FAILURE TO FILE. (1) Every service plan shall annually,
3 within one hundred twenty days of the closing date of its fiscal year,
4 file with the commissioner a statement, verified by at least two of the
5 principal officers of the service plan, showing its financial condition
6 as of the closing date of its fiscal year. The statement must be in a
7 form as provided or prescribed by the commissioner. The commissioner
8 may, for good reason, allow a reasonable extension of the time within
9 which the annual statement shall be filed.

10 (2) The commissioner may suspend or revoke the certificate of
11 registration of a service plan failing to file its annual statement
12 when due or during an extension of time that the commissioner, for good
13 cause, may grant.

14 NEW SECTION. **Sec. 146.** PAYMENTS FOR SERVICES. (1) Payment by
15 check for claims under a health care service contract for health care
16 services provided by persons regulated by Title 18 RCW, where the
17 provider is not a participating provider under a contract with the
18 service plan, shall be made out to both the provider and the enrolled
19 participant, with the provider as the first named payee, jointly, to
20 require endorsement by each.

21 (2) Payment shall be made in the single name of the enrolled
22 participant if the enrolled participant as part of his or her claim
23 furnishes evidence of prepayment to the provider.

24 (3) Nothing in this section precludes a service plan from
25 voluntarily issuing payment in the single name of the provider.

26 NEW SECTION. **Sec. 147.** AGENT--DEFINITION--LICENSE REQUIRED--
27 APPLICATION, ISSUANCE, RENEWAL, FEES--PENALTIES INVOLVING LICENSE. (1)
28 "Agent," as used in sections 128 through 148 and 201 through 214 of
29 this act, means a person appointed or authorized by a service plan to
30 solicit applications for health care service contracts on the service
31 plan's behalf.

32 (2) No person may act as or hold himself or herself out to be an
33 agent of a service plan unless licensed as a disability insurance agent
34 by this state and appointed by the service plan on whose behalf
35 solicitations are to be made. The health care commissioner may, by
36 rule, authorize other persons to function in the agent role. The rules
37 may be similar to chapter 48.17 RCW and rules adopted under chapter

1 48.17 RCW. These authorized persons are subject to the regulation of
2 the health care commissioner.

3 (3) Initial and renewal applications, appointments, and
4 qualifications for licenses, and the initial and subsequent fees and
5 issuance of a license shall be in accordance with the provisions of
6 chapter 48.17 RCW that are applicable to a disability insurance agent.

7 (4) A person holding a valid license in this state as a service
8 plan agent on June 30, 1993, is not required to requalify by an
9 examination for the renewal of the license under this chapter, but is
10 subject to regulation by either the insurance commissioner or health
11 care commissioner as provided in this chapter.

12 (5) The insurance commissioner or commissioner may revoke, suspend,
13 or refuse to issue or renew an agent's license to solicit applications
14 for service plans, or levy a fine upon the licensee, in accordance with
15 those provisions of chapter 48.17 RCW or this chapter that are
16 applicable to a disability insurance agent.

17 NEW SECTION. **Sec. 148.** TAXES. (1) All service plans, in lieu of
18 other state or local taxes shall pay a business and occupations tax of
19 one and one-half percent plus an assessment to fund the commissioner's
20 regulation of service plans of one-quarter of one percent. The revenue
21 raised by the assessment shall be appropriated as necessary to the
22 commissioner's office for that purpose. The revenue raised by the
23 assessment shall not be spent on any other purpose. The commissioner
24 may by rule, reduce the assessment in a year, by the amount of revenue
25 in the account from previous years.

26 (2) The state treasurer is directed to open an account of the state
27 to receive and hold assessments raised under subsection (1) of this
28 section. Revenue shall be disbursed from the fund in accord with
29 legislative appropriation.

30 (3) Applicable provisions of chapters 82.04 and 82.32 RCW apply to
31 this section.

32 **PART II - ACCESS TO HEALTH CARE**

33 NEW SECTION. **Sec. 201.** LEGISLATIVE FINDINGS. The legislature
34 finds:

1 (1) Each citizen of the state of Washington must have access to
2 adequate, basic health care insurance that protects against financial
3 ruin due to illness or injury;

4 (2) Health care system reform must build on the strengths of the
5 current system; and

6 (3) Health care costs must be more effectively managed, and the
7 rate of increase brought down.

8 NEW SECTION. **Sec. 202.** HEALTH CARE INSURANCE. (1) Subject to
9 subsection (2) of this section, a resident of the state of Washington
10 must have health care coverage under one of the following programs:

11 (a) A federal program;

12 (b) From an employer;

13 (c) Purchased through the personal health care program as
14 established under section 203 of this act.

15 (2) Subject to section 203(2) of this act, the health care
16 commissioner by rule may create classes of exemptions from this
17 requirement for the following:

18 (a) Part-time residents;

19 (b) Migrant workers;

20 (c) Nonresident aliens; or

21 (d) Other persons with health care coverage satisfactory to the
22 health care commissioner.

23 No group may be exempted unless the health care commissioner is
24 assured that the persons will not consume health care services under
25 circumstances in which the cost of providing services would likely be
26 shifted to covered persons unless the administrative costs of detecting
27 and enrolling the persons would outweigh the cost shift.

28 NEW SECTION. **Sec. 203.** ALL RESIDENTS TO ARRANGE HEALTH CARE
29 INSURANCE. (1) Subject to section 202 of this act, all residents of
30 Washington have the obligation of arranging health care coverage for
31 themselves and their dependents who are also residents of Washington.
32 The health care commissioner may by rule permit residents to cover
33 their dependents who live outside the state, but all such coverage
34 shall be paid for in full by the resident before coverage is commenced,
35 continued, or renewed.

36 (2) Every health care provider who provides services to a resident
37 without health care insurance shall submit a claim to the health care

1 commissioner on a form provided by the health care commissioner. The
2 health care commissioner shall make payment to the provider from a fee
3 schedule the health care commissioner shall establish by rule, which
4 shall reflect the rates of reimbursement for the region of the state
5 involved.

6 (3) The health care commissioner shall by rule condition access to
7 state programs, privileges, and licenses on each resident having health
8 care insurance coverage.

9 (4) Subject to section 202 of this act, the health care
10 commissioner shall by rule arrange for health care coverage for
11 residents obtaining care without coverage and assess premiums, plus an
12 interest rate of six percent, back to the resident's last day of proven
13 coverage. The health care commissioner may pursue the premiums in a
14 civil suit filed in a court of competent jurisdiction in the state.
15 The health care commissioner may recover reasonable attorneys' fees and
16 costs upon substantially prevailing.

17 (5)(a) The health care commissioner shall by rule arrange a
18 reporting system of insureds by all health care service plans subject
19 to state jurisdiction.

20 (b) The health care commissioner shall request the cooperation of
21 those not subject to state jurisdiction to report its insureds or those
22 who are otherwise covered.

23 (c) The health care commissioner shall establish by rule programs
24 meant to identify residents without coverage and assist them in finding
25 coverage.

26 (6) By December 31, 1994, the health care commissioner shall report
27 to the senate and the house of representatives of the legislature his
28 or her recommendations as to penalties for those who fail to obtain
29 coverage for themselves and their dependents.

30 NEW SECTION. **Sec. 204.** HEALTH INSURANCE REFORM. (1) The health
31 care commissioner shall adopt rules ensuring that persons insured by
32 health care service plans subject to the state's jurisdiction have
33 coverages that:

34 (a) Are portable from one source of coverage to another;

35 (b) Do not exclude coverage because of preexisting conditions or
36 waiting periods; and

37 (c) As to benefits covered in the personal health plan in section
38 205 of this act, are community-rated. Benefits that are in excess of

1 the personal health plan and written in supplemental coverages under
2 section 205 of this act, may be rated as to age and sex as well.

3 (2) The health care commissioner shall adopt rules that are
4 consistent with the concept of private, as opposed to social,
5 insurance; sound private sector insurance business practices; and do
6 not result in unfair shifting of costs from one carrier to another or
7 from one insured to another except as clearly required by this chapter.

8 NEW SECTION. **Sec. 205.** PERSONAL HEALTH CARE PROGRAM--

9 PARTICIPATING CARE PLANS. (1) The health care commissioner shall
10 create a state-administered insurance program to provide personal
11 health plan coverage to all residents not otherwise insured.

12 (2)(a) The coverage shall be provided by private managed care plans
13 available in the various regions of the state. For this purpose,
14 managed care refers to a variety of techniques or organizational
15 structures used by health care delivery systems to control health care
16 costs and promote continuous quality improvement in the delivery of
17 health care. Managed care may be achieved by: Prospective assessment
18 of care; general rules governing medical decision making; benefit
19 design; or by provider selection. Managed care does not necessarily
20 require individual patient care management by a physician "gatekeeper,"
21 or health maintenance organization systems of health care delivery.

22 (b) The health care commissioner shall by rule define market
23 regions in the state.

24 (c) All plans shall include a prohibition on providers billing
25 patients for anything other than copayments allowed under the health
26 care commissioner's rules.

27 (3)(a) Each insurance carrier shall offer a standard benefit
28 package called a personal health plan, the benefits, copayments, and
29 rates of which shall be set as provided in this subsection by the
30 health care commissioner by rule. No service a carrier offers in the
31 personal health plan may be offered in another policy of the carrier.

32 (b) Before the beginning of each state fiscal year, the health care
33 commissioner shall consult with an advisory committee, which shall,
34 after suitable public input, report to the health care commissioner a
35 list of health services, ranked by priority, from the most important to
36 the least important, representing the comparative benefits of each
37 service to the entire population to be served. The recommendation
38 shall be accompanied by a report of an independent actuary retained

1 each year by the health care commissioner, after competitive bidding,
2 in accord with state competitive bidding practices. The actuary shall
3 determine rates necessary to cover each of the costs of the services
4 rated on a state-wide basis. The health care commissioner shall then
5 set a rate, which may include quarterly adjustments, to be used to
6 purchase services for persons subject to section 206 of this act. The
7 health care commissioner shall also set standard copayments to be
8 charged by all carriers for the personal health plan.

9 (c) For the personal health plan, carriers shall compete on the
10 basis of how far down the list of ranked benefits they can deliver
11 coverage for services for the health care commissioner's stipulated
12 rate and level of copayments. Carriers must go down the list of ranked
13 services in the order adopted by the health care commissioner.
14 Carriers may change how far down they will go down the list for
15 contract years beginning during each quarter of the state fiscal year.
16 No carrier may offer different benefits for the state-set premium for
17 individual customers assigned by the health care commissioner. All
18 changes must be keyed to fiscal year quarters and announced and filed
19 with the health care commissioner ten days in advance of use. Services
20 that a carrier does not include in the personal health plan must be
21 sold in a separate supplemental coverage, with a separate contract,
22 separate premium, and separate copayment schedule. No supplemental
23 coverage may be sold except as a supplement to the personal health plan
24 or as a supplement to an employer's self-insured plan.

25 (d) The health care commissioner is permitted to establish tiers
26 for the premiums in accord with the following, and carriers are
27 permitted to give separate levels of how far down the list the carrier
28 could go for that premium:

- 29 (i) Single person;
- 30 (ii) Family, by size.

31 (e) Carriers who participate in the personal health plan may offer
32 coverages supplemental to the personal health plan or any other lawful
33 coverages as they choose, subject only to the health care
34 commissioner's regulatory authority under chapter 43.-- RCW (sections
35 101 through 148 of this act). State or local government self-insured
36 plans shall offer to their employees and dependents the personal health
37 plan and supplemental coverages on the same terms as insurance
38 companies.

1 (f) Limited service plans as defined in section 137 of this act
2 have no obligation to participate in the personal health care plan.

3 NEW SECTION. **Sec. 206.** PERSONAL HEALTH PLAN--OTHERWISE UNCOVERED
4 PERSONS. (1) The following persons who do not have health care
5 coverage through their workplace or otherwise may acquire coverage
6 under the personal health program subject to the following conditions:

7 (a) Persons with family incomes under one hundred percent of the
8 federal poverty level with premiums paid by the state, but with
9 copayment requirements established by the health care commissioner to
10 deter unnecessary utilization;

11 (b) Persons with family income levels over one hundred percent, but
12 under two hundred fifty percent of the federal poverty level with
13 premiums to be paid by covered persons on a sliding scale keyed to
14 income to be determined by the health care commissioner, but with
15 copayment requirements established to help fund the care provided and
16 deter unnecessary utilization;

17 (c) Persons with family income above two hundred fifty percent of
18 the federal poverty level with premiums paid by covered persons and
19 with copayment requirements established to help fund the care provided
20 and deter unnecessary utilization.

21 (2) Carrier eligibility to do business in the state shall be
22 conditioned by the health care commissioner on accepting a fair
23 allocation of state-sponsored personal health plan patients. The
24 health care commissioner shall create standards addressing the criteria
25 health care service plans may use to turn away personal health plan
26 business on the basis of a carrier having accepted its fair share of
27 such persons. The rules shall also endeavor to avoid adverse selection
28 to particular kinds of carriers due to their popularity among the
29 public and ensure that all carriers, in one way or another, cover
30 approximately the same percentage of the personal health plan market
31 that it has in the nonpersonal health plan market.

32 (3) Persons eligible for medicaid or other federal programs shall
33 participate in the personal health plan if the federal government
34 permits them to do so. If the federal government permits, employer
35 self-insured employee benefit programs shall be treated like insurance
36 programs for purposes of this chapter. With the written approval of
37 the governor, the health care commissioner shall make application for
38 necessary waivers from federal law to implement this subsection.

1 NEW SECTION. **Sec. 207.** PRACTITIONER DISCLOSURE REQUIREMENTS AND
2 FACILITY PRIVILEGES--LEGISLATIVE FINDINGS. The legislature finds:

3 (1) Health care is a personal and intimate relationship between
4 patients and providers of health care services. There are contending
5 points of view as to appropriate therapeutic approaches, medically safe
6 sites for care, and appropriate training of health care practitioners.

7 (2) This section and sections 208 through 211 of this act seek to
8 ensure the patient's freedom of choice, the freedom of various
9 practitioners to compete for patients, and the freedom of practitioners
10 from being unfairly exposed to liability due to intervening in care
11 that was managed by another type of practitioner.

12 (3) The purpose of this chapter is the regulation of competition by
13 the state in this area through mandating that more information be made
14 available in the market place to create real therapeutic choices for
15 patients, and place some, but not all, of the responsibility for those
16 choices on the patient.

17 NEW SECTION. **Sec. 208.** PRACTITIONER DISCLOSURE REQUIREMENTS AND
18 FACILITY PRIVILEGES--PRACTITIONER-PATIENT RELATIONSHIP. (1) All

19 practitioner-patient relationships, except those that both originate in
20 an emergency and do not extend beyond the emergency, shall be under a
21 written care agreement containing a written disclosure statement signed
22 by both the practitioner and the patient containing the following:

23 (a) The formal training of the practitioner, including type and
24 length, as well as posttraining experience;

25 (b) Specify a planned site for the entire course of care with the
26 practitioner's certificate of suitability of the patient for such a
27 site or with an indication that it is against the practitioner's
28 advice;

29 (c) Indicate with whom the practitioner has a voluntary written
30 call and back-up relationship and health care facility relationship,
31 including admitting privileges, if any.

32 (2) The secretary of health, by rule, shall adopt forms or
33 guidelines for forms and requirements to notify patients of changes in
34 a practitioner's information that are to be used by all health care
35 practitioners regulated under state law.

36 (3) A health care practitioner regulated under state law who
37 violates this section is guilty of unprofessional conduct for purposes
38 of chapter 18.130 RCW.

1 (4) Practitioners who must render care to patients with whom they
2 have no care agreement, or no back-up relationship with the patient's
3 practitioner and are not members of such practitioner's hospital staff,
4 shall have a malpractice action brought against them arising out of the
5 care adjudicated by a new standard of care imposing liability, only
6 where there is intentional or reckless disregard of the standard of
7 care in the community proven by clear and convincing evidence. The
8 secretary of health may exempt from this subsection unforeseeable
9 health care rendered to persons in different geographic localities from
10 their place of residence.

11 NEW SECTION. **Sec. 209.** PRACTITIONER DISCLOSURE REQUIREMENTS AND
12 FACILITY PRIVILEGES--PRACTITIONER-FACILITY RELATIONSHIP. (1) No
13 hospital or other care facility in the state of Washington must extend
14 admitting privileges to any type of practitioner.

15 (2) Hospitals shall not force practitioners of different licensure
16 into the same hospital staffs without the consent of the practitioners.
17 However, the medical staff shall contain practitioners licensed under
18 chapters 18.71, 18.57, and 18.32 RCW, but shall not contain other
19 practitioners except on terms and conditions as the medical staff by a
20 two-thirds vote accepts.

21 (3) Subject to subsection (2) of this section, hospitals may create
22 as many staffs as they choose.

23 (4) No hospital may require practitioners of another licensure
24 staff to comment on the application, credentials, or conduct of
25 practitioners outside of their staff.

26 (5) A hospital may require physicians to provide emergency care to
27 patients of practitioners not on the medical staff, but the care will
28 be judged in malpractice actions under the standard contained in
29 section 208 of this act.

30 NEW SECTION. **Sec. 210.** PRACTITIONER DISCLOSURE REQUIREMENTS AND
31 FACILITY PRIVILEGES--PRACTITIONER-PATIENT-INSURANCE COMPANY
32 RELATIONSHIP. No public health care payer plan or health care service
33 plan subject to the jurisdiction of the state of Washington is required
34 to pay practitioners for services it regards as unsafe due to:

35 (1) The nature of the services;

36 (2) The training of the practitioner providing the service; or

37 (3) The site of the service;

1 if this was disclosed in the health care coverage contract.

2 NEW SECTION. **Sec. 211.** SECRETARY OF HEALTH IMPLEMENTATION OF
3 SECTIONS 207 THROUGH 210 OF THIS ACT BY RULE. The secretary of health
4 may implement sections 207 through 210 of this act by rule in
5 accordance with chapter 34.05 RCW.

6 NEW SECTION. **Sec. 212.** SECRETARY OF HEALTH TO STUDY SUPPLY OF
7 PRIMARY CARE PRACTITIONERS. The secretary of health shall conduct a
8 study with the University of Washington medical school to identify
9 practical steps the state of Washington can take to encourage the
10 location of more primary care physicians in the state, particularly in
11 traditionally underserved urban and rural areas.

12 NEW SECTION. **Sec. 213.** LONG-TERM CARE. The health care
13 commissioner shall present a proposal to the legislature by December
14 15, 1993, to establish a financing mechanism and a proposed startup
15 date, no later than January 1, 1996, for covering long-term care.
16 Proposed benefit packages, changes to long-term care facility
17 regulation, and the role of the personal health care plan and
18 supplemental health care coverages should also be addressed in the
19 proposal.

20 NEW SECTION. **Sec. 214.** REVENUE. (1) There is created in the
21 state treasury the Washington state health care access account. Moneys
22 deposited in the account under this section may be spent only on
23 activities contained in sections 201 through 213 of this act.

24 (2) There shall be a tax on all alcoholic beverages sold subject to
25 the jurisdiction of the state of Washington of twenty percent of the
26 retail sales price including all other taxes. The tax shall be
27 collected as a sales tax.

28 (3) There shall be a tax on all tobacco products sold subject to
29 the jurisdiction of the state of Washington of fifty percent of the
30 retail sales price including all other taxes. The tax shall be
31 collected as a sales tax.

32 (4) There shall be a sales tax on all services provided subject to
33 the jurisdiction of the state of Washington of one percent.

34 **PART III - COST CONTAINMENT**

1 NEW SECTION. **Sec. 301.** LEGISLATIVE FINDINGS. The legislature
2 finds that the cost of health care:

3 (1) Is a serious barrier to providing services to those who need
4 them;

5 (2) Deprives other sectors of the economy of needed resources;

6 (3) Is caused by a number of different features of both the health
7 care industry and the state regulatory apparatus; and can be reduced
8 effectively only by carefully addressing both of these issues.

9 NEW SECTION. **Sec. 302.** COOPERATIVE PURCHASING AND SELLING. (1)
10 Greater flexibility is needed as to how groups of people may purchase
11 health care coverage and how providers organize to provide cost-
12 effective health care services. The express authorization of both
13 buyers of health care coverage and sellers of health care services to
14 form cooperatives is necessary to encourage additional innovation in
15 these two important areas.

16 (2) It is declared to be the policy of the state that the health
17 care commissioner will actively supervise the competitive practices of
18 group purchasing organizations established under section 303 of this
19 act and independent practice associations established under section 304
20 of this act in order to achieve the displacement of the federal
21 antitrust laws to the maximum extent permitted under the Parker
22 doctrine.

23 NEW SECTION. **Sec. 303.** COOPERATIVE PURCHASING OF HEALTH CARE
24 INSURANCE. (1) The legislature finds that many businesses could
25 achieve substantial savings in the premiums they pay for health care
26 insurance for their employees if they were able to aggregate their
27 buying power in reasonable and responsible ways. ERISA allows limited
28 regulation of such activities containing employers and employees
29 subject to its terms, and this chapter seeks to exercise the
30 jurisdiction allowed. In order to allow public and church-employer
31 groups the same benefits as private employers, they are included.

32 The legislature further finds that there is a danger that the undue
33 aggregation of buying power by such organizations could be harmful to
34 the competitive nature of a health care insurance marketplace and
35 therefore has authorized, on a limited basis, consumer protection act
36 suits under chapter 19.86 RCW.

1 (2) Definitions. For purposes of this section, the following words
2 shall have the following meanings:

3 (a) "Commissioner" means the health care commissioner of the state
4 of Washington.

5 (b) "Employee" and "employer" have the same meaning as under ERISA.

6 (c) "ERISA" means the Employee Retirement Income Security Act of
7 1974 as amended.

8 (d) "Group health care coverage" means group health care coverage
9 regulated under chapter . . . , Laws of 1993 (this act) and may include
10 other group insurance coverages when purchased in addition to group
11 health care coverage.

12 (e) "Members" means all those who are covered by a group health
13 care coverage arrangement or those for whom such coverage is arranged
14 as defined in the organizational documents of the group purchasing
15 organization.

16 (f) "Multiple employer purchasing organization" means a fully
17 insured multiple employer welfare arrangement as defined in ERISA
18 except that it includes nonfederal employers and employees not covered
19 by ERISA because of section 4 of ERISA.

20 (g) "Other group purchasing organization" means any other fully
21 insured group purchasing arrangement irrespective of who the sponsoring
22 group is or whether it was formed for purposes of purchasing insurance.

23 (h) "Group purchasing organization" means both or either a multiple
24 employer purchasing organization or another group purchasing
25 organization.

26 (3) Creation of group purchasing organizations.

27 (a) A group of public or private employers may join together for
28 purposes of organizing a multiple employer purchasing organization.

29 (b) Other group of residents may form another group purchasing
30 organization for purposes of purchasing health care coverage for
31 themselves and their dependents.

32 (4) Regulation.

33 (a) No entity may function as a group purchasing organization
34 without first obtaining a certificate of authority from the
35 commissioner. Subject to this chapter, such certificate of authority
36 shall be subject to the procedural provisions of chapter 34.05 RCW and
37 sections 120 through 148 of this act as to application, issuance,
38 duration, renewal, refusal, suspension, revocation, or reauthorization.

1 (b) A group purchasing organization shall be issued a certificate
2 of authority sixty days after submitting an application containing the
3 following:

4 (i) A copy of the basic organizational document and bylaws of the
5 organization with a list of officers, board of directors, or other
6 governing body;

7 (ii) A list of the members or specific method of selecting members;

8 (iii) The identity of all persons or entities, if any, who will
9 receive, hold, or transmit premiums for group health care coverage;

10 (iv) The method of collecting and setting the level of
11 contributions from members that the group purchasing organization will
12 maintain in order to ensure the timely payment of all premiums for the
13 group health care coverage it purchases; and

14 (v) Such other information directly related to the provisions of
15 this subsection (4)(b) and clearly necessary to carry out the
16 provisions of this section as the commissioner shall require by rule.

17 (5)(a) The commissioner may adopt rules implementing this section.
18 The commissioner may require, by rule, notification of changes by the
19 group of information provided in its application. Unless the
20 commissioner disapproves the change within thirty days, the change
21 shall be deemed approved.

22 (b) The rules shall be maximally flexible and minimally intrusive
23 so as to encourage the formation and functioning of group purchasing
24 organizations and facilitate their complying with this chapter with a
25 minimum of expense and effort.

26 (6)(a) Nothing authorized by the commissioner may be deemed a
27 violation of chapter 19.86 RCW or Title 48 RCW.

28 (b) The commissioner, on the advice of the attorney general, may,
29 after a hearing under chapter 34.05 RCW, convened on his or her own
30 initiative or pursuant to public complaint, order a group purchasing
31 organization to reduce its market share in a relevant geographic market
32 if the commissioner finds by clear and convincing evidence that the
33 purchasing power of a group purchasing organization constitutes a
34 violation of RCW 19.86.040. The commissioner shall use the same
35 standards in evaluating group purchasing associations in this regard as
36 independent practice associations under section 304 of this act.

37 (c) Violations of this chapter that injure insureds or sponsors may
38 be redressed in the same manner as violations of RCW 19.86.020 but do
39 not constitute violations of chapter 19.86 RCW.

1 (7) Every group purchasing organization shall annually file with
2 the commissioner, within one hundred twenty days of the closing of the
3 calendar year, a statement verified by at least two of the principal
4 officers of the group purchasing organization containing the following:

5 (a) A financial statement on a form adopted by the commissioner by
6 rule, setting forth information relating to that part of its finances
7 regulated by this section; and

8 (b) The numbers of persons for whom it jointly purchases health
9 care by zip code.

10 (8) Failing to comply with a provision of this section is a ground
11 for having a certificate of authority suspended or revoked. The
12 revocation proceedings shall be governed by chapter 34.05 RCW.

13 (9) The commissioner may order the rehabilitation and liquidation
14 of a group purchasing organization as if it were a domestic insurer
15 under chapter 48.31 RCW, but only for violations of the standards
16 contained in subsection (4)(b)(ii) of this section.

17 (10)(a) The commissioner may by rule establish an application fee
18 for group purchasing organizations that will offset the reasonable
19 costs of reviewing such applications.

20 (b) The commissioner may by rule establish an annual registration
21 fee, in addition to the application fee, that will reasonably offset
22 the reasonable costs of regulating such entities.

23 (c) Such fees shall be reviewable in the superior court of the
24 county in which the group purchasing organization is domiciled for
25 reasonableness, the burden of establishing such reasonableness being on
26 the commissioner.

27 (d) Failing to pay such fees is a ground for refusing, suspending,
28 or revoking a certificate of authority.

29 (e) The commissioner may by rule establish rules of competitive
30 conduct that are designed solely to encourage a more competitive health
31 care marketplace. Violations may be pursued by the commissioner
32 through cease and desist orders reviewable under chapter 34.05 RCW.
33 Violations of cease and desist orders that are made final constitute a
34 misdemeanor.

35 NEW SECTION. **Sec. 304.** COOPERATIVE SELLING OF HEALTH CARE. (1)
36 The legislature finds that the prompt and prolific growth of managed
37 care systems will require that providers be able to put together
38 innovative configurations of service providers. There is now some

1 uncertainty about how that can be done both under federal and state
2 law. Clarity in the law affecting this important area is required in
3 order to induce providers to form such groups.

4 (2) Definitions. For purposes of this section, the following words
5 shall have the following meanings:

6 (a) "Commissioner" means the health care commissioner of the state
7 of Washington.

8 (b) "Provider" means an institution or program that provides health
9 care services subject to regulation by the state.

10 (c) "Practitioner" means an individual or group of individuals who
11 provide health care services subject to regulation by the state.

12 (d) "Members" means practitioners and providers who join together
13 to form an independent practice association to sell health care
14 services.

15 (e) "Independent practice association" means an association of
16 practitioners or providers who join together to sell jointly their
17 services.

18 (3) Creation of independent practice associations.

19 A group of providers may join together for purposes of organizing
20 an independent practice association.

21 (4)(a) Nothing authorized in this chapter may be deemed a violation
22 of chapter 19.86, 18.100, or 18.130 RCW, however, nothing in this
23 chapter shall be deemed to authorize the corporate practice of
24 professions prohibited by the corporate practice of medicine doctrine.

25 (b) The commissioner may, after a hearing under chapter 34.05 RCW
26 convened on his or her own initiative or pursuant to public complaint,
27 order an independent practice association to reduce its market share in
28 a relevant geographic market when the commissioner finds by clear and
29 convincing evidence that the purchasing power of a group purchasing
30 organization constitutes a violation of RCW 19.86.040. The
31 commissioner shall use the same standards in evaluating independent
32 practice associations in this regard as group purchasing organizations
33 under section 303 of this act.

34 (c) Violations of this chapter that injure insureds or sponsors may
35 be redressed in the same manner as violations of RCW 19.86.020 but do
36 not constitute violations of chapter 19.86 RCW.

37 (d) Every independent practice association shall annually file with
38 the commissioner, within one hundred twenty days of the closing of the
39 calendar year, a statement verified by at least two of the principal

1 officers of the independent practice association containing the
2 following:

3 (i) A list of contracts with buyers of health care services that
4 are in effect on that date with an indication of the dollar volume of
5 each contract during the previous year.

6 (ii) The numbers and specialty descriptions or provider types of
7 members for whom it jointly sells health care by zip code.

8 (e) The commissioner may by rule establish rules of competitive
9 conduct that are designed solely to encourage a more competitive health
10 care marketplace. Violations may be pursued by the commissioner
11 through cease and desist orders reviewable under chapter 34.05 RCW.
12 Violations of cease and desist orders that are made final shall
13 constitute a misdemeanor.

14 NEW SECTION. **Sec. 305.** AGGREGATING THE BUYING POWER OF THE STATE
15 OF WASHINGTON. (1) The legislature finds that:

16 (a) The state may decide it can achieve cost savings and other
17 efficiencies by consolidating its purchasing power for the medical care
18 services it buys under state programs.

19 (b) The consolidation of this purchasing power may give the state
20 substantial market power in the nonfederal health care marketplace.
21 The legislature recognizes that there are at least two risks to the
22 public associated with that purchasing power:

23 (i) If the price set is too low, providers will shift their losses
24 to private payers causing private insurance rates to increase beyond
25 that caused by the expenses of their insureds.

26 (ii) If providers are unable to shift the increases to the private
27 sector, the health care delivery system will shrink, causing access
28 problems and resulting in the disappearance of necessary services in
29 many areas, particularly traditionally underserved areas.

30 (c) In order to balance the benefits and dangers of the state
31 consolidating its purchasing power, it is necessary to permit the
32 health care providers who deal with the state to negotiate jointly with
33 the state, subject to the substantial safeguards contained in this
34 chapter.

35 (d) Competition should be displaced to the extent required in this
36 chapter and the process established should be actively supervised by
37 the state as described herein. It seeks to displace the operation of

1 the federal antitrust laws to this joint negotiation with the state
2 only, to the maximum extent allowable under Parker doctrine.

3 (2) Definitions. For the purposes of this section, the following
4 words shall have the following meanings:

5 (a) "Administrator" means the administrator of the health care
6 authority of the state of Washington.

7 (b) "Attorney general" means the attorney general of the state of
8 Washington.

9 (c) "Health care provider" means a person or entity providing
10 health care services who is providing health care services, but does
11 not include a provider who bills through another provider or is an
12 employee of another provider.

13 (d) "Health care service plan" means a nonpublic entity providing
14 health care coverage subject to the jurisdiction of the state of
15 Washington.

16 (e) "Provider representative" means a person or entity appointed by
17 the governor to represent the provider regarding the terms and
18 conditions under which it will provide health care services to the
19 state of Washington.

20 (f) "State-arranged health care" means health care arranged or
21 purchased for patients under the auspices of a program funded or
22 administered, in whole or part, by the state of Washington. State-
23 arranged health care does not include state programs in which the
24 health care is provided by state employees or state-owned health care
25 entities.

26 (3) Consolidation of state purchasing.

27 (a) If the state of Washington, in any material way, consolidates
28 or takes steps to consolidate its purchasing power for more than one
29 state-arranged health care program, then provider representatives shall
30 be appointed by the governor for each major practitioner or facility
31 category in a manner provided by rule and consistent with subsection
32 (4) of this section.

33 (b) Six months before the date a contract or program is scheduled
34 to provide state-arranged health care or three months before such
35 program begins the bidding process for a state-arranged health care
36 program, whichever is greater, the administrator shall arrange to have
37 appear, in the Washington state register, a notice whether it intends
38 to consolidate its purchasing power as provided in (a) of this
39 subsection.

1 (c) A health care provider may seek a declaratory judgment in the
2 superior court of Thurston county that the state has materially
3 consolidated or taken steps to consolidate its purchasing power for
4 more than one program of state-arranged health care. If the court
5 finds that such a consolidation has taken place or that steps have been
6 taken to effect such a consolidation, it may order the administrator to
7 announce such fact in the Washington state register. The notice shall
8 remain in effect until such time as the court, upon petition of the
9 administrator of the health care authority, finds that the
10 consolidation no longer exists. A health care provider may join as a
11 party to an action brought under this subsection.

12 (4) Providers representatives.

13 (a) The governor shall designate as provider representatives an
14 entity that is broadly representative of, and therefore agreeable to,
15 the provider group in the state. The governor may appoint more than
16 one provider representative in situations where multiple representation
17 is indicated by the provider group's organization and history. All
18 provider representative appointments may be reviewed in superior court
19 using an arbitrary and capricious standard. Provider representatives
20 may be removed by the governor for neglect of duty or violation of this
21 chapter, but not for the substance of its conduct permitted by
22 subsection (5) of this section.

23 (b) Provider representatives may establish compensation
24 arrangements with the health care providers they represent that are
25 reasonable.

26 (c) Provider representatives are not liable to the providers they
27 represent except for intentional misconduct involving a clear breach of
28 their fiduciary duties or fraud proved by clear and convincing
29 evidence.

30 (5) Negotiation process.

31 (a) In the event of consolidation of purchasing power by the state,
32 the health care authority administrator shall hold hearings and engage
33 in meaningful negotiations with provider representatives about the
34 terms and conditions of providing state-arranged health care. Nothing
35 in this section may be construed to obligate the administrator to
36 accede to the requests of provider representatives regarding the terms
37 and conditions of providing state-arranged health care. Negotiations
38 are to be conducted by the administrator only for those state-arranged
39 health care programs whose purchasing was consolidated.

1 (b) Negotiations under this section shall be treated as collective
2 bargaining negotiations for purposes of RCW 42.30.140.

3 (c) In the event a provider representative, in his or her sole
4 judgment, concludes that the terms and conditions set by the state for
5 obtaining state-arranged health care will result in:

6 (i) Cost-shifting to private payers to recoup losses caused by the
7 setting of terms and conditions substantially varying from customary
8 rates without offsetting economic advantages; or

9 (ii) Substantial diminution in the capacity of the health care
10 provider to provide services to public or private patients,
11 such provider representatives may advise the health care providers it
12 represents to refrain from providing state-arranged health care after
13 the provider representative has filed with the administrator a written
14 report containing its finding along with the written recommendations
15 that it will send to the health care providers it represents.

16 (d) The administrator may rebut in writing the notice sent to
17 represented health care providers, but the administrator may not vary
18 the terms and conditions that the provider representative based his or
19 her findings on.

20 (e) If the administrator wishes to change the terms and conditions
21 he or she proposes for state-arranged health care from those the
22 provider representative based its findings on, the administrator shall
23 first engage in the negotiation process described in (a) of this
24 subsection and allow provider representatives to respond to them and
25 issue a new recommendation to the health care providers it represents
26 in the manner provided in (c) of this subsection.

27 (6) Privileges and immunities.

28 (a) No making of a recommendation or the content of the
29 recommendation of a provider representative made under subsection (5)
30 of this section may be reviewable in or by a court or other body.

31 (b) No health care provider may be liable in damages or be subject
32 to other action or penalty for following or not following the
33 recommendation.

34 (c) Provider representatives may not agree among themselves as to
35 what recommendation to make under subsection (5) of this section to the
36 health care providers they represent. Nothing in this section shall
37 prevent provider representatives from discussing among themselves the
38 terms and conditions of proposals for state-arranged health care.

1 (d) No inferences of illegality may be drawn from actions or
2 conduct permitted by this chapter.

3 (e) Nothing in this chapter may be deemed to affect the laws
4 applying to the arranging of health care services with private sector
5 purchasers.

6 (7) State supervision of process.

7 (a) The attorney general of the state of Washington may issue cease
8 and desist orders to restrain any otherwise illegal collaborative
9 anticompetitive action or conduct that is not permitted by this
10 chapter. A superior court may review such a cease and desist order de
11 novo under chapter 34.05 RCW upon the petition of a health care
12 provider or provider representative named in the order. The court may
13 award reasonable attorneys' fees to the substantially prevailing party.
14 This remedy is in addition to other remedies available at law.

15 (b) The attorney general may by rule set the guidelines under which
16 he or she will issue cease and desist orders. The rules are reviewable
17 in a superior court in the state of Washington as if they were rules
18 under chapter 34.05 RCW.

19 (c) The attorney general shall issue advisory opinions upon the
20 request of provider representatives as to whether proposed actions
21 would be the subject of a cease and desist order or other legal remedy
22 sought by the attorney general. The opinions are reviewable under
23 chapter 34.05 RCW in a superior court in the state of Washington as
24 declaratory rulings.

25 NEW SECTION. **Sec. 306.** ANTICOMPETITIVE REGULATION OF HEALTH
26 PROFESSIONS. (1) The legislature finds that professionally controlled
27 boards are necessary to bring professional expertise to complex
28 professional regulatory questions. However, the legislature also finds
29 that these boards occasionally yield to the requests of their
30 professional associations and individual practitioners to reach
31 anticompetitive results which increases the costs of health care,
32 frustrate consumer sovereignty, and distort the health care
33 marketplace.

34 (2) The health care commissioner, with the concurrence of the
35 secretary of health, is allowed to revise, through the rule-making
36 process, a rule, standard, or guideline of a health care profession's
37 regulatory board created under Title 18 RCW, upon making findings after

1 a public hearing held in accordance with the rule-making provisions of
2 chapter 34.05 RCW:

3 (a) That the public health and safety justification for a board's
4 rule, standard, or guideline is outweighed by the anticompetitive
5 effects it will have on the health care marketplace;

6 (b) That the public health and safety justification for a board's
7 rule, standard, or guideline can be substantially achieved in a manner
8 that is less disruptive of a competitive health care marketplace; or

9 (c) That a board's rule, standard, or guideline is in violation of
10 the legislative intent of the statute upon which it is based and
11 substantially distorts a competitive health care marketplace.

12 NEW SECTION. **Sec. 307.** INTERSTATE MOBILITY OF HEALTH CARE
13 PRACTITIONERS. The secretary of health shall have exclusive rule-
14 making authority over the ability of practitioners licensed in other
15 jurisdictions to be licensed in the state of Washington. The secretary
16 shall permit to the maximum extent consistent with the public health
17 and safety practitioners with good records from other jurisdictions to
18 become licensed in the state of Washington if they could have met
19 substantially the same entrance standards as practitioners in the state
20 of Washington at the time they completed their professional training.

21 NEW SECTION. **Sec. 308.** PROFESSIONAL SCOPE OF PRACTICE. (1) The
22 legislature finds that:

23 (a) The setting of the scopes of practice of health care
24 professions subject to its jurisdiction is time consuming and often
25 beyond its expertise;

26 (b) Professionally controlled boards have strong incentives to
27 expand the scope of practice of their practitioner beyond what is
28 permitted by statute, and that oversight of that process is virtually
29 nonexistent;

30 (c) The public health and safety implications as well as the health
31 care cost consequences of practitioner scopes of practice can be
32 serious;

33 (d) This process could more intelligently and with greater
34 attention to the complex scientific and economic consequence of such
35 decisions be done by an administrative body.

1 (2) The legislature creates the health care professions practice
2 board to be composed of the following state officials or their
3 departmental designees:

4 (a) The director of the department of labor and industries;

5 (b) The secretary of health;

6 (c) The administrator of the state health care authority;

7 (d) The vice-president of medical affairs of the University of
8 Washington; and

9 (e) The secretary of the department of social and health services.

10 (3) The health care professions practice board shall meet at the
11 call of the chair who shall be appointed from among the members from
12 time to time by the governor.

13 (4) On its own initiative or upon the petition of an interested
14 party, the health care professions practice board may add to or take
15 away functions of a profession's scope of practice under such terms and
16 conditions as it deems prudent. However, the health care professions
17 practice board may not reduce the scope of practice of any profession
18 beyond what is found in statute as of the effective date of this
19 section.

20 (5) Decisions of the health care professions practice board may be
21 altered by the legislature by a sixty percent vote of each house and
22 concurrence by the governor.

23 (6) The health care professions practice board, upon the request of
24 any interested person, may convene an adjudicative hearing under
25 chapter 34.05 RCW to determine whether any decision of any professional
26 regulatory authority under Title 18 RCW regarding the scope of practice
27 of a profession is consistent with any statute or the rules of the
28 health care professions practice board. It may reverse, vacate,
29 revoke, nullify, or modify any such decision. No review by the board
30 shall serve to impose sanctions upon a health care professional unless
31 that review occurs within ninety days of the decision being reviewed.

32 (7) All rules, standards, guidelines, or judgments of any kind
33 relating to a profession's scope of practice of any health care
34 professional authority under Title 18 RCW, whether adopted before or
35 after the effective date of this section, are subject to the review of
36 the health care professions practice board.

37 (8) In reaching decisions under this section, the health care
38 professions practice board shall function de novo, that is, it shall
39 give no deference to the decision of the board below, but may give

1 deference to the judgments of the board below in clinical and
2 scientific areas only.

3 (9) Judicial review of all decisions of the health care professions
4 practice board shall be in accord with chapter 34.05 RCW.

5 (10) The members of the health care professions practice board
6 shall serve without pay, but shall be reimbursed for their costs in
7 traveling to meetings in accord with state law.

8 (11) Funding for the health care professions practice board shall
9 be by appropriation from the health professions account.

10 NEW SECTION. **Sec. 309.** ENHANCING COMPETITION IN HEALTH CARE
11 FACILITY LICENSURE. The secretary of health is hereby directed to
12 establish, by rule, new categories of health care facilities that
13 contain components of health care facilities subject to regulation by
14 the state of Washington to achieve the following goals:

15 (1) The start-up costs of health care facilities are reduced in
16 order to encourage new entrants into the marketplace;

17 (2) That patient movement among different types of facilities are
18 facilitated;

19 (3) That difference in type or level of severity of care delivered
20 by health care facilities can be blended under one roof with greater
21 regulatory ease; or

22 (4) That care can be segmented so that unrelated services need not
23 be offered in a single health care facility because of regulatory
24 reasons.

25 Such rules shall permit maximal flexibility in the provider
26 community in creating new facilities to provide services to the public
27 consistent requirements on clear public health and safety needs.

28 NEW SECTION. **Sec. 310.** PRACTITIONER SELF-REFERRAL. (1) The
29 legislature finds that health care practitioners subject to the
30 regulation of the state should make referral decisions on the basis of
31 the interests of the patient.

32 (2) Definitions. For the purposes of this section, the following
33 words shall have the following meanings:

34 (a) "Practitioner" means a health care practitioner regulated by
35 the state of Washington.

36 (b) "Facility" means a health care facility regulated by the state
37 of Washington.

1 (c) "Refer" means a recommendation of any kind to a patient that
2 the patient receive health care or goods of any kind from an identified
3 source other than:

4 (i) The referring practitioner or a group practice of which the
5 referring practitioner is an employee; or

6 (ii) A practitioner or group of practitioners over which the
7 referring practitioner has no meaningful supervision.

8 (3) No practitioner shall refer a patient for care unless any
9 financial interest the practitioner has in the entity to whom the
10 patient is referred is disclosed in writing:

11 (a) To the patient with the clear advice that the patient may go to
12 the provider of his or her choice;

13 (b) To the patient's health service plan or other health care payer
14 subject to the jurisdiction of the state upon timely written request of
15 the service plan or payer;

16 (c) To the health care commissioner pursuant to a rule enacted by
17 the commissioner.

18 (4) Knowing and willful violation of this section shall be a gross
19 misdemeanor and construed to be unprofessional conduct for purposes of
20 chapter 18.130 RCW.

21 NEW SECTION. **Sec. 311.** HOSPITALS TO INFORM PRACTITIONERS OF
22 CHARGES. The secretary of health shall adopt rules under chapter 34.05
23 RCW requiring hospitals to advise their practitioners with admitting
24 privileges of their charges for goods and services at least annually.

25 NEW SECTION. **Sec. 312.** PROVIDER ELIGIBILITY TO PARTICIPATE IN
26 PLANS. All health care insurance plans, including self-insured plans,
27 subject to the jurisdiction of the state of Washington may establish
28 terms and conditions to be met by providers wishing to enter into an
29 agreement with the insurer to provide services to the plan's enrollees.
30 An insurer may not deny a provider the right to enter into such an
31 agreement if the provider is willing and able to meet the terms and
32 conditions established in that agreement. Plans may terminate
33 providers for substantial cause in accordance with the agreement's
34 terms. Providers terminated for cause under any agreement need not be
35 accepted by a plan into its other or subsequent agreements.

1 NEW SECTION. **Sec. 313.** REGULATION OF UTILIZATION REVIEW EFFORTS.

2 (1) No company subject to the jurisdiction of the state of Washington
3 may provide utilization review services to any person, insurance or
4 self-insured plan, or other entity without complying with this section.
5 For purposes of this section, utilization review services include, but
6 are not limited to, services whose purpose is to ascertain the
7 necessity or appropriateness of medical or other health care services
8 delivered or proposed to be delivered to patients enrolled in a health
9 care plan for purposes of determining whether payment for such services
10 should be made, providers acted appropriately or cost-effectively, or
11 other similar purpose.

12 (2) The health care commissioner shall adopt rules ensuring that
13 utilization review services are licensed by the health care
14 commissioner. The health care commissioner by rule shall establish
15 such licensing application process and standards.

16 (3) The application process may require the applicant to submit
17 information that the health care commissioner reasonably requires in
18 order to determine that the applicant meets licensing standards. The
19 health care commissioner shall approve or disapprove complete
20 applications within ninety days of submission or the application shall
21 be deemed approved. Appeals from disapproval shall be governed by
22 chapter 34.05 RCW. Suspensions or revocations of licensure shall also
23 be governed by chapter 34.05 RCW.

24 (4) The standards for licensure shall be:

25 (a) That the health care service plan have appropriately qualified
26 personnel;

27 (b) Appropriate standards of review that are justified by reliable
28 scientific and medical knowledge;

29 (c) Safeguards against arbitrary decisions that result in denials
30 of claims or deprivation of benefits promised in the underlying plan
31 documents;

32 (d) Prompt notification of decisions to the plan, provider, and
33 patient within two days or sooner as appropriate to the care and
34 condition of the patient being reviewed;

35 (e) Notifications of decisions are to be in writing with
36 explanations of the reasoning and basis for the decision, all such
37 decisions shall be accompanied by a written explanation of the appeal
38 procedure contained in the plan;

1 (f) That the appeal shall be decided by a physician or other
2 provider licensed to provide the service without supervision who is
3 appropriately certified in the specialty or subspecialty of care
4 involved;

5 (g) That appeals conducted by the utilization review service shall
6 be decided promptly and reasonably given the type of care being
7 reviewed and the condition of the patient; and

8 (h) Such other standards that are clearly related to ensuring that
9 accurate and fair decisions are made that are consistent with the
10 underlying plan documents.

11 (5) The health care commissioner shall by rule levy an application
12 fee and annual administrative assessment to cover the reasonable costs
13 of processing the applications and regulating such services.

14 (6) The health care commissioner may levy fines against or suspend
15 or revoke the licenses of services violating standards of performance
16 adopted by rule. Such fines and penalties shall be proportional to the
17 harm caused consumers, providers, or plans for whom the services were
18 provided. Such proceedings are to be governed by chapter 34.05 RCW.

19 (7) The legislature directs the health care commissioner to allow
20 maximum room for innovation in utilization review and to keep the
21 administrative burdens on such services to a minimum. Courts or others
22 reviewing rules adopted or licensing decisions made by the health care
23 commissioner shall ensure that this legislative objective is achieved.

24 NEW SECTION. **Sec. 314.** LABOR AND INDUSTRIES HEALTH CARE TO BE
25 PROVIDED PURSUANT TO MANAGED CARE. (1) All health care provided
26 pursuant to Title 51 RCW shall be provided under managed care
27 arrangements as defined in section 205 of this act. The director of
28 the department of labor and industries in consultation with the health
29 care commissioner and the secretary of health shall adopt rules to
30 achieve that result before April 1, 1994, to the maximum extent
31 consistent with state law.

32 (2) By September 30, 1994, the director of the department of labor
33 and industries shall submit a report to both houses of the legislature
34 identifying statutory changes necessary to fully implement the delivery
35 of all care covered by Title 51 RCW through managed care as defined in
36 section 205 of this act.

1 NEW SECTION. **Sec. 315.** LABOR AND INDUSTRIES DISABILITY RATING.

2 (1) No treating practitioner shall be involved with decisions as to
3 disability rating.

4 (2) The medical director shall create panels of three physicians in
5 specialties relevant to the injury or condition of covered persons who
6 shall make all decisions regarding disability rating and when to
7 terminate treatment. Such physicians shall serve no more than six in
8 a twelve-month period. Their compensation for this service shall be
9 fixed by the department director by rule.

10 NEW SECTION. **Sec. 316.** HOSPITAL DISCOUNTS TO BE SUPPORTED BY COST
11 CONSIDERATIONS. (1) The health care commissioner shall issue cease and
12 desist orders against hospitals who enter into contracts with
13 nonfederal payers under which they provide services at below marginal
14 costs. Appeals from such orders shall be governed by the contested
15 hearing provisions of chapter 34.05 RCW.

16 (2) The health care commissioner may adopt rules enforcing this
17 section, including providing for the reporting of all contracts with
18 such payers signed by hospitals. The health care commissioner may also
19 prohibit service plans regulated by sections 120 through 148 of this
20 act and any other public or private payers subject to the jurisdiction
21 of the state of Washington soliciting hospital rates that do not cover
22 the marginal costs of the services provided.

23 NEW SECTION. **Sec. 317.** STUDY OF COORDINATION OF BENEFITS ISSUES.
24 The health care commissioner shall study the issue of coordination of
25 benefits as it relates to relieving covered persons of the obligation
26 of copayments and the possible result in unnecessary utilization caused
27 thereby. The health care commissioner may study other aspects of
28 coordination of benefits. The health care commissioner shall report to
29 the governor and both houses of the legislature with recommendations
30 for legislation, if any, by September 1, 1994.

31 NEW SECTION. **Sec. 318.** (1) The legislature recognizes that a
32 broadly based system of health promotion and disease and injury
33 prevention should be directed at entire populations or communities
34 rather than to a succession of individuals.

35 (2) The secretary of the department of health shall prepare a
36 recommendation to the legislature that would encourage and fund a

1 broadly based system of community health protection, community health
2 promotion, and education and communicable disease prevention and
3 control. The secretary shall report to the legislature by December 31,
4 1993.

5

PART IV - LIABILITY REFORM

6 **Sec. 401.** RCW 7.70.070 and 1975-'76 2nd ex.s. c 56 s 12 are each
7 amended to read as follows:

8 (1) The court shall, in any action under this chapter, determine
9 the reasonableness of each party's attorneys' fees. The court shall
10 take into consideration the following:

11 ~~((+1))~~ (a) The time and labor required, the novelty and difficulty
12 of the questions involved, and the skill requisite to perform the legal
13 service properly;

14 ~~((+2))~~ (b) The likelihood, if apparent to the client, that the
15 acceptance of the particular employment will preclude other employment
16 by the lawyer;

17 ~~((+3))~~ (c) The fee customarily charged in the locality for similar
18 legal services;

19 ~~((+4))~~ (d) The amount involved and the results obtained;

20 ~~((+5))~~ (e) The time limitations imposed by the client or by the
21 circumstances;

22 ~~((+6))~~ (f) The nature and length of the professional relationship
23 with the client; and

24 ~~((+7))~~ (g) The experience, reputation, and ability of the lawyer
25 or lawyers performing the services(~~(+~~

26 ~~(8) Whether the fee is fixed or contingent~~)).

27 (2) Subsection (1) of this section does not apply to contingent
28 attorneys' fees calculated under section 402 of this act.

29 (3) In an action under this chapter, the court shall award
30 reasonable attorneys' fees to a prevailing party after a voluntary or
31 involuntary order of dismissal, order on summary judgment, final
32 judgment after trial, or other final order terminating the action as to
33 the prevailing party. In no event may the award of attorneys' fees to
34 a prevailing party exceed ten thousand dollars. The award of
35 attorneys' fees shall be in addition to any award for the prevailing
36 party's costs. This subsection does not apply to any prevailing party

1 for whom attorneys' fees are calculated pursuant to section 402 of this
2 act.

3 NEW SECTION. Sec. 402. CONTINGENT ATTORNEY FEES LIMITATIONS. (1)
4 As used in this section:

5 (a) "Contingency fee agreement" means an agreement that an
6 attorney's fee is dependent or contingent, in whole or in part, upon
7 successful prosecution or settlement of a claim or action, or upon the
8 amount of recovery.

9 (b) "Properly chargeable disbursements" means reasonable expenses
10 incurred and paid by an attorney on a client's behalf in prosecuting or
11 settling a claim or action.

12 (c) "Recovery" means the amount to be paid to an attorney and his
13 or her client as a result of a settlement or money judgment.

14 (2) In a claim or action filed under this chapter for personal
15 injury or wrongful death based upon the alleged conduct of another, if
16 an attorney enters into a contingency fee agreement with his or her
17 client and if a money judgment is awarded to the attorney's client or
18 the claim or action is settled, the attorney's fee shall not exceed the
19 amounts set forth in (a) or (b) of this subsection:

20 (a) Not more than forty percent of the first five thousand dollars
21 recovered, then not more than thirty-five percent of the amount more
22 than five thousand dollars but less than twenty-five thousand dollars,
23 then not more than twenty-five percent of the amount of twenty-five
24 thousand dollars or more but less than two hundred fifty thousand
25 dollars, then not more than twenty percent of the amount of two hundred
26 fifty thousand dollars or more but less than five hundred thousand
27 dollars, and not more than ten percent of the amount of five hundred
28 thousand dollars or more.

29 (b) As an alternative to (a) of this subsection, not more than one-
30 third of the first two hundred fifty thousand dollars recovered, not
31 more than twenty percent of an amount more than two hundred fifty
32 thousand dollars but less than five hundred thousand dollars, and not
33 more than ten percent of an amount more than five hundred thousand
34 dollars.

35 (3) The fees allowed in subsection (2) of this section are computed
36 on the net sum of the recovery after deducting from the recovery the
37 properly chargeable disbursements. In computing the fee, the costs as
38 taxed by the court are part of the amount of the money judgment. In

1 the case of a recovery payable in installments, the fee is computed
2 using the present value of the future payments.

3 (4) A contingency fee agreement made by an attorney with a client
4 must be in writing and must be executed at the time the client retains
5 the attorney for the claim or action that is the basis for the
6 contingency fee agreement. An attorney who fails to comply with this
7 subsection is barred from recovering a fee in excess of the lowest fee
8 available under subsection (2) of this section, but the other
9 provisions of the contingency fee agreement remain enforceable.

10 (5) An attorney shall provide a copy of a contingency fee agreement
11 to the client at the time the contingency fee agreement is executed.
12 An attorney shall include his or her usual and customary hourly rate of
13 compensation in a contingency fee agreement.

14 (6) An attorney who enters into a contingency fee agreement that
15 violates subsection (2) of this section is barred from recovering a fee
16 in excess of the attorney's reasonable actual attorney fees based on
17 his or her usual and customary hourly rate of compensation, up to the
18 lowest amount allowed under subsection (2) of this section, but the
19 other provisions of the contingency fee agreement remain enforceable.

20 NEW SECTION. **Sec. 403.** NONECONOMIC DAMAGES--JOINT AND SEVERAL
21 LIABILITY--LEGISLATIVE INTENT. The legislature finds that in *Sofie v.*
22 *Fibreboard Corp.*, 112 Wn.2d 636 (1989), the Washington state supreme
23 court struck down the limit on noneconomic damages enacted by the
24 legislature in 1986, because the court found that the statutory
25 limitation on noneconomic damages interfered with the jury's province
26 to determine damages, and thus violated a plaintiff's constitutionally
27 protected right to trial by jury.

28 The legislature further finds that reforms in existing law for
29 actions involving fault are necessary and proper to avoid catastrophic
30 economic consequences for state and local governmental entities as well
31 as private individuals and businesses.

32 Therefore, the legislature declares that to remedy the economic
33 inequities which may arise from *Sofie*, defendants in actions involving
34 fault should be held financially liable in closer proportion to their
35 respective degree of fault. To treat them differently is unfair and
36 inequitable.

37 It is further the intent of the legislature to partially eliminate
38 causes of action based on joint and several liability as provided by

1 this chapter for the purpose of reducing costs associated with the
2 civil justice system.

3 NEW SECTION. **Sec. 404.** JOINT AND SEVERAL LIABILITY RESTRICTIONS.

4 (1) For the purposes of this section, the term "economic damages" means
5 objectively verifiable monetary losses, including medical expenses,
6 loss of earnings, burial costs, cost of obtaining substitute domestic
7 services, loss of employment, and loss of business or employment
8 opportunities. "Economic damages" does not include subjective,
9 nonmonetary losses such as pain and suffering, mental anguish,
10 emotional distress, disability and disfigurement, inconvenience, injury
11 to reputation, humiliation, destruction of the parent-child
12 relationship, the nature and extent of an injury, loss of consortium,
13 society, companionship, support, love, affection, care, services,
14 guidance, training, instruction, and protection.

15 (2) In all actions involving fault of more than one entity, the
16 trier of fact shall determine the percentage of the total fault which
17 is attributable to every entity which caused the claimant's injuries,
18 including the claimant or person suffering personal injury, defendants,
19 third-party defendants, entities released by the claimant, entities
20 immune from liability to the claimant, and entities with any other
21 individual defense against the claimant. Judgment shall be entered
22 against each defendant except those who have been released by the
23 claimant or are immune from liability to the claimant or have prevailed
24 on any other individual defense against the claimant in an amount that
25 represents that party's proportionate share of the claimant's total
26 damages. The liability of each defendant shall be several only and
27 shall not be joint except:

28 (a) A party shall be responsible for the fault of another person or
29 for payment of the proportionate share of another party where both were
30 acting in concert or when a person was acting as an agent or servant of
31 the party.

32 (b) If the trier of fact determines that the claimant or party
33 suffering bodily injury was not at fault, the defendants against whom
34 judgment is entered shall be jointly and severally liable for the sum
35 of their proportionate shares of the claimant's economic damages.

36 (3) If a defendant is jointly and severally liable under one of the
37 exceptions listed in subsection (2)(a) or (b) of this section, such
38 defendant's rights to contribution against another jointly and

1 severally liable defendant, and the effect of settlement by either such
2 defendant, shall be determined under RCW 4.22.040, 4.22.050, and
3 4.22.060.

4 NEW SECTION. **Sec. 405.** CERTIFICATE OF MERIT REQUIRED. (1) The
5 claimant's attorney shall file the certificate specified in
6 subsection (2) of this section within thirty days of filing or service,
7 whichever occurs later, for any action for damages arising out of
8 injuries resulting from health care by a health care provider, as
9 defined in RCW 7.70.020.

10 (2) The certificate issued by the claimant's attorney shall
11 declare:

12 (a) That the attorney has reviewed the facts of the case;

13 (b) That the attorney has consulted with at least one qualified
14 expert who holds a license, certificate, or registration issued by this
15 state or another state in the same profession as that of the defendant,
16 who practices in the same specialty or subspecialty as the defendant,
17 and whom the attorney reasonably believes is knowledgeable in the
18 relevant issues involved in the particular action;

19 (c) The identity of the expert and the expert's license,
20 certification, or registration;

21 (d) That the expert is willing and available to testify to
22 admissible facts or opinions; and

23 (e) That the attorney has concluded on the basis of such review and
24 consultation that there is reasonable and meritorious cause for the
25 filing of such action.

26 (3) Where a certificate is required under this section, and where
27 there are multiple defendants, the certificate or certificates must
28 state the attorney's conclusion that on the basis of review and expert
29 consultation, there is reasonable and meritorious cause for the filing
30 of such action as to each defendant.

31 (4) The provisions of this section shall not be applicable to a
32 plaintiff who is not represented by an attorney.

33 (5) Violation of this section shall be grounds for either dismissal
34 of the case or sanctions against the attorney, which may include an
35 order to pay to the defendant or defendants the amount of reasonable
36 expense incurred including a reasonable attorneys' fee, or both, as the
37 court deems appropriate.

1 NEW SECTION. Sec. 406. EXPERT TESTIMONY. In determining whether
2 a proposed expert is qualified to present expert testimony at trial, by
3 deposition, or by affidavit, in a malpractice proceeding against a
4 health care practitioner, the court shall consider the following
5 factors:

6 (1) If the proposed expert is a physician, whether the proposed
7 expert is board-certified in the medical specialty at issue in the
8 proceeding, or has completed the training required for board
9 certification in the medical specialty at issue in the proceeding;

10 (2) If the proposed expert is an independent health care
11 practitioner for which specialty certification or its equivalent is
12 available, whether that expert has been certified or its equivalent in
13 the type of practice or procedure at issue in the proceeding, or has
14 completed the training required for such certification or its
15 equivalent;

16 (3) Whether the proposed expert was engaged in the active practice
17 of his or her discipline at the time the alleged negligence occurred;
18 and

19 (4) Any other factors deemed necessary or appropriate by the court.

20 NEW SECTION. Sec. 407. MANDATORY MEDIATION. If an action filed
21 under this chapter is not concluded within one year after the action
22 was filed, the court shall order the dispute to be mediated through an
23 informal, nonbinding mediation proceeding, unless the court finds good
24 cause not to order mediation. The parties may select any mutually
25 agreed-upon mediator or mediation organization or, if the parties
26 cannot agree, the court shall appoint a mediator from among a list
27 compiled by the court. The mediation shall continue until the action
28 is resolved or until the mediator makes a finding that mediation will
29 not be successful in resolving the action. Each party shall pay an
30 equal share of the costs of the mediation proceeding. The provisions
31 of RCW 5.60.070, pertaining to the privileged and confidential nature
32 of any communication made or materials submitted as part of the
33 mediation proceeding, apply to all mediation proceedings undertaken
34 pursuant to this section.

35

PART V - MISCELLANEOUS

1 NEW SECTION. **Sec. 501.** RECODIFICATION. RCW 70.170.010,
2 70.170.020, 70.170.030, 70.170.040, 70.170.050, 70.170.100, and
3 70.170.110 as amended by this act are recodified. These sections and
4 sections 101 through 110, 116, and 119 through 148 of this act shall
5 constitute a new chapter in Title 43 RCW.

6 NEW SECTION. **Sec. 502.** REPEALERS. The following acts or parts of
7 acts are each repealed:

- 8 (1) RCW 19.68.010 and 1973 1st ex.s. c 26 s 1 & 1965 ex.s. c 58 s
9 1;
- 10 (2) RCW 19.68.020 and 1965 ex.s. c 58 s 2 & 1949 c 204 s 2;
- 11 (3) RCW 19.68.030 and 1965 ex.s. c 58 s 3;
- 12 (4) RCW 19.68.040 and 1949 c 204 s 4;
- 13 (5) RCW 48.20.002 and 1987 c 185 s 25 & 1951 c 229 s 1;
- 14 (6) RCW 48.20.012 and 1951 c 229 s 2 & 1947 c 79 s .20.02;
- 15 (7) RCW 48.20.013 and 1983 1st ex.s. c 32 s 9 & 1967 c 150 s 26;
- 16 (8) RCW 48.20.015 and 1975 1st ex.s. c 266 s 9;
- 17 (9) RCW 48.20.022 and 1951 c 229 s 3;
- 18 (10) RCW 48.20.032 and 1951 c 229 s 4 & 1947 c 79 s .20.03;
- 19 (11) RCW 48.20.042 and 1951 c 229 s 5;
- 20 (12) RCW 48.20.050 and 1983 1st ex.s. c 32 s 16;
- 21 (13) RCW 48.20.052 and 1983 1st ex.s. c 32 s 17, 1975 1st ex.s. c
22 266 s 12, 1973 1st ex.s. c 152 s 4, 1969 ex.s. c 241 s 12, & 1951 c 229
23 s 6;
- 24 (14) RCW 48.20.062 and 1951 c 229 s 7;
- 25 (15) RCW 48.20.072 and 1951 c 229 s 8 & 1947 c 79 s .20.07;
- 26 (16) RCW 48.20.082 and 1951 c 229 s 9;
- 27 (17) RCW 48.20.092 and 1951 c 229 s 10 & 1947 c 79 s .20.10;
- 28 (18) RCW 48.20.102 and 1951 c 229 s 11;
- 29 (19) RCW 48.20.112 and 1951 c 229 s 12;
- 30 (20) RCW 48.20.122 and 1951 c 229 s 13;
- 31 (21) RCW 48.20.132 and 1951 c 229 s 14;
- 32 (22) RCW 48.20.142 and 1951 c 229 s 15;
- 33 (23) RCW 48.20.152 and 1951 c 229 s 16;
- 34 (24) RCW 48.20.162 and 1951 c 229 s 17;
- 35 (25) RCW 48.20.172 and 1951 c 229 s 18;
- 36 (26) RCW 48.20.192 and 1951 c 229 s 20;
- 37 (27) RCW 48.20.202 and 1987 c 185 s 26 & 1951 c 229 s 21;
- 38 (28) RCW 48.20.212 and 1987 c 185 s 27 & 1951 c 229 s 22;

1 (29) RCW 48.20.222 and 1987 c 185 s 28 & 1951 c 229 s 23;
2 (30) RCW 48.20.232 and 1951 c 229 s 24;
3 (31) RCW 48.20.242 and 1951 c 229 s 25;
4 (32) RCW 48.20.252 and 1951 c 229 s 26;
5 (33) RCW 48.20.262 and 1951 c 229 s 27;
6 (34) RCW 48.20.272 and 1951 c 229 s 28;
7 (35) RCW 48.20.282 and 1951 c 229 s 29;
8 (36) RCW 48.20.292 and 1951 c 229 s 30;
9 (37) RCW 48.20.302 and 1951 c 229 s 31;
10 (38) RCW 48.20.312 and 1951 c 229 s 32;
11 (39) RCW 48.20.322 and 1951 c 229 s 33;
12 (40) RCW 48.20.340 and 1961 c 194 s 5 & 1947 c 79 s .20.34;
13 (41) RCW 48.20.350 and 1947 c 79 s .20.35;
14 (42) RCW 48.20.360 and 1947 c 79 s .20.36;
15 (43) RCW 48.20.380 and 1947 c 79 s .20.38;
16 (44) RCW 48.20.390 and 1963 c 87 s 1;
17 (45) RCW 48.20.393 and 1989 c 338 s 1;
18 (46) RCW 48.20.395 and 1985 c 54 s 5 & 1983 c 113 s 1;
19 (47) RCW 48.20.397 and 1985 c 54 s 1;
20 (48) RCW 48.20.410 and 1965 c 149 s 2;
21 (49) RCW 48.20.411 and 1973 1st ex.s. c 188 s 3;
22 (50) RCW 48.20.412 and 1971 ex.s. c 13 s 1;
23 (51) RCW 48.20.414 and 1971 ex.s. c 197 s 1;
24 (52) RCW 48.20.416 and 1974 ex.s. c 42 s 1;
25 (53) RCW 48.20.420 and 1985 c 264 s 10 & 1969 ex.s. c 128 s 3;
26 (54) RCW 48.20.430 and 1983 1st ex.s. c 32 s 18 & 1974 ex.s. c 139
27 s 1;
28 (55) RCW 48.20.450 and 1985 c 264 s 11 & 1975 1st ex.s. c 266 s 16;
29 (56) RCW 48.20.460 and 1981 c 339 s 19 & 1975 1st ex.s. c 266 s 17;
30 (57) RCW 48.20.470 and 1985 c 264 s 12 & 1975 1st ex.s. c 266 s 18;
31 (58) RCW 48.20.480 and 1975 1st ex.s. c 266 s 19;
32 (59) RCW 48.20.490 and 1980 c 10 s 1;
33 (60) RCW 48.20.500 and 1986 c 140 s 2;
34 (61) RCW 48.20.510 and 1987 c 37 s 1;
35 (62) RCW 48.20.520 and 1988 c 173 s 1;
36 (63) RCW 48.20.530 and 1991 c 87 s 7;
37 (64) RCW 48.21.010 and 1992 c 226 s 2, 1949 c 190 s 27, & 1947 c 79
38 s .21.01;
39 (65) RCW 48.21.015 and 1992 c 226 s 3;

- 1 (66) RCW 48.21.020 and 1947 c 79 s .21.02;
- 2 (67) RCW 48.21.030 and 1947 c 79 s .21.03;
- 3 (68) RCW 48.21.040 and 1959 c 225 s 7 & 1947 c 79 s .21.04;
- 4 (69) RCW 48.21.045 and 1990 c 187 s 2;
- 5 (70) RCW 48.21.050 and 1947 c 79 s .21.05;
- 6 (71) RCW 48.21.060 and 1947 c 79 s .21.06;
- 7 (72) RCW 48.21.070 and 1947 c 79 s .21.07;
- 8 (73) RCW 48.21.075 and 1975 1st ex.s. c 117 s 1;
- 9 (74) RCW 48.21.080 and 1961 c 194 s 6 & 1947 c 79 s .21.08;
- 10 (75) RCW 48.21.090 and 1947 c 79 s .21.09;
- 11 (76) RCW 48.21.100 and 1947 c 79 s .21.10;
- 12 (77) RCW 48.21.110 and 1955 c 303 s 17 & 1947 c 79 s .21.11;
- 13 (78) RCW 48.21.120 and 1947 c 79 s .21.12;
- 14 (79) RCW 48.21.130 and 1963 c 87 s 2;
- 15 (80) RCW 48.21.140 and 1965 c 149 s 3;
- 16 (81) RCW 48.21.141 and 1973 1st ex.s. c 188 s 4;
- 17 (82) RCW 48.21.142 and 1971 ex.s. c 13 s 2;
- 18 (83) RCW 48.21.144 and 1971 ex.s. c 197 s 2;
- 19 (84) RCW 48.21.146 and 1974 ex.s. c 42 s 2;
- 20 (85) RCW 48.21.150 and 1977 ex.s. c 80 s 32 & 1969 ex.s. c 128 s 4;
- 21 (86) RCW 48.21.155 and 1983 1st ex.s. c 32 s 20 & 1974 ex.s. c 139
- 22 s 2;
- 23 (87) RCW 48.21.160 and 1987 c 458 s 13 & 1974 ex.s. c 119 s 1;
- 24 (88) RCW 48.21.180 and 1990 1st ex.s. c 3 s 7, 1987 c 458 s 14, &
- 25 1974 ex.s. c 119 s 3;
- 26 (89) RCW 48.21.190 and 1975 1st ex.s. c 266 s 10 & 1974 ex.s. c 119
- 27 s 5;
- 28 (90) RCW 48.21.195 and 1987 c 458 s 15;
- 29 (91) RCW 48.21.197 and 1987 c 458 s 21;
- 30 (92) RCW 48.21.200 and 1983 c 202 s 16, 1983 c 106 s 24, & 1975 1st
- 31 ex.s. c 266 s 20;
- 32 (93) RCW 48.21.220 and 1988 c 245 s 31, 1984 c 22 s 1, & 1983 c 249
- 33 s 1;
- 34 (94) RCW 48.21.225 and 1989 c 338 s 2;
- 35 (95) RCW 48.21.230 and 1985 c 54 s 6 & 1983 c 113 s 2;
- 36 (96) RCW 48.21.235 and 1985 c 54 s 2;
- 37 (97) RCW 48.21.240 and 1987 c 283 s 3, 1986 c 184 s 2, & 1983 c 35
- 38 s 1;
- 39 (98) RCW 48.21.244 and 1988 c 276 s 6;

1 (99) RCW 48.21.250 and 1984 c 190 s 2;
2 (100) RCW 48.21.260 and 1984 c 190 s 3;
3 (101) RCW 48.21.270 and 1984 c 190 s 4;
4 (102) RCW 48.21.280 and 1986 c 140 s 3;
5 (103) RCW 48.21.290 and 1987 c 37 s 2;
6 (104) RCW 48.21.300 and 1988 c 173 s 2;
7 (105) RCW 48.21.310 and 1989 c 345 s 2;
8 (106) RCW 48.21.320 and 1989 c 331 s 2;
9 (107) RCW 48.21.330 and 1991 c 87 s 8;
10 (108) RCW 48.41.010 and 1987 c 431 s 1;
11 (109) RCW 48.41.020 and 1987 c 431 s 2;
12 (110) RCW 48.41.030 and 1989 c 121 s 1 & 1987 c 431 s 3;
13 (111) RCW 48.41.040 and 1989 c 121 s 2 & 1987 c 431 s 4;
14 (112) RCW 48.41.050 and 1987 c 431 s 5;
15 (113) RCW 48.41.060 and 1989 c 121 s 3 & 1987 c 431 s 6;
16 (114) RCW 48.41.070 and 1989 c 121 s 4 & 1987 c 431 s 7;
17 (115) RCW 48.41.080 and 1989 c 121 s 5 & 1987 c 431 s 8;
18 (116) RCW 48.41.090 and 1989 c 121 s 6 & 1987 c 431 s 9;
19 (117) RCW 48.41.100 and 1989 c 121 s 7 & 1987 c 431 s 10;
20 (118) RCW 48.41.110 and 1987 c 431 s 11;
21 (119) RCW 48.41.120 and 1989 c 121 s 8 & 1987 c 431 s 12;
22 (120) RCW 48.41.130 and 1987 c 431 s 13;
23 (121) RCW 48.41.140 and 1987 c 431 s 14;
24 (122) RCW 48.41.150 and 1989 c 121 s 9 & 1987 c 431 s 15;
25 (123) RCW 48.41.160 and 1987 c 431 s 16;
26 (124) RCW 48.41.170 and 1987 c 431 s 17;
27 (125) RCW 48.41.180 and 1987 c 431 s 18;
28 (126) RCW 48.41.190 and 1989 c 121 s 10 & 1987 c 431 s 19;
29 (127) RCW 48.41.200 and 1987 c 431 s 20;
30 (128) RCW 48.41.210 and 1987 c 431 s 21;
31 (129) RCW 48.41.900 and 1987 c 431 s 22;
32 (130) RCW 48.41.910 and 1987 c 431 s 25;
33 (131) RCW 48.44.010 and 1990 c 120 s 1 & 1986 c 223 s 1;
34 (132) RCW 48.44.011 and 1983 c 202 s 1 & 1969 c 115 s 7;
35 (133) RCW 48.44.015 and 1983 c 202 s 2 & 1969 c 115 s 6;
36 (134) RCW 48.44.020 and 1990 c 120 s 5, 1986 c 223 s 2, 1985 c 283
37 s 1, 1983 c 286 s 4, 1973 1st ex.s. c 65 s 1, 1969 c 115 s 1, 1961 c
38 197 s 2, & 1947 c 268 s 2;
39 (135) RCW 48.44.023 and 1990 c 187 s 3;

1 (136) RCW 48.44.026 and 1990 c 120 s 6, 1989 c 122 s 1, 1984 c 283
2 s 1, & 1982 c 168 s 1;
3 (137) RCW 48.44.030 and 1990 c 120 s 7, 1986 c 223 s 3, 1981 c 339
4 s 22, 1969 c 115 s 2, 1961 c 197 s 3, & 1947 c 268 s 3;
5 (138) RCW 48.44.033 and 1990 c 120 s 2;
6 (139) RCW 48.44.035 and 1990 c 120 s 3;
7 (140) RCW 48.44.037 and 1990 c 120 s 4;
8 (141) RCW 48.44.040 and 1947 c 268 s 4;
9 (142) RCW 48.44.050 and 1947 c 268 s 5;
10 (143) RCW 48.44.055 and 1990 c 120 s 11;
11 (144) RCW 48.44.057 and 1990 c 120 s 8;
12 (145) RCW 48.44.060 and 1947 c 268 s 6;
13 (146) RCW 48.44.070 and 1990 c 120 s 9, 1965 c 87 s 2, & 1961 c 197
14 s 4;
15 (147) RCW 48.44.080 and 1990 c 120 s 10, 1986 c 223 s 4, 1965 c 87
16 s 3, & 1961 c 197 s 5;
17 (148) RCW 48.44.090 and 1961 c 197 s 6;
18 (149) RCW 48.44.095 and 1983 c 202 s 3 & 1969 c 115 s 5;
19 (150) RCW 48.44.100 and 1961 c 197 s 7;
20 (151) RCW 48.44.110 and 1961 c 197 s 8;
21 (152) RCW 48.44.120 and 1961 c 197 s 9;
22 (153) RCW 48.44.130 and 1961 c 197 s 10;
23 (154) RCW 48.44.140 and 1961 c 197 s 11;
24 (155) RCW 48.44.145 and 1986 c 296 s 8, 1983 c 63 s 1, & 1969 c 115
25 s 12;
26 (156) RCW 48.44.150 and 1961 c 197 s 12;
27 (157) RCW 48.44.160 and 1988 c 248 s 19, 1973 1st ex.s. c 65 s 2,
28 1969 c 115 s 3, & 1961 c 197 s 13;
29 (158) RCW 48.44.164 and 1969 c 115 s 10;
30 (159) RCW 48.44.166 and 1983 c 202 s 4 & 1969 c 115 s 11;
31 (160) RCW 48.44.170 and 1961 c 197 s 14;
32 (161) RCW 48.44.180 and 1961 c 197 s 15;
33 (162) RCW 48.44.200 and 1977 ex.s. c 80 s 33 & 1969 ex.s. c 128 s
34 1;
35 (163) RCW 48.44.210 and 1977 ex.s. c 80 s 34 & 1969 ex.s. c 128 s
36 2;
37 (164) RCW 48.44.212 and 1984 c 4 s 1, 1983 c 202 s 5, & 1974 ex.s.
38 c 139 s 3;

1 (165) RCW 48.44.220 and 1983 c 154 s 4, 1979 c 127 s 1, & 1969 c
2 115 s 4;
3 (166) RCW 48.44.225 and 1983 c 154 s 5;
4 (167) RCW 48.44.230 and 1983 1st ex.s. c 32 s 11 & 1973 1st ex.s.
5 c 65 s 4;
6 (168) RCW 48.44.240 and 1990 1st ex.s. c 3 s 12, 1987 c 458 s 16,
7 1975 1st ex.s. c 266 s 14, & 1974 ex.s. c 119 s 4;
8 (169) RCW 48.44.245 and 1987 c 458 s 17;
9 (170) RCW 48.44.250 and 1982 c 149 s 1 & 1975 1st ex.s. c 117 s 3;
10 (171) RCW 48.44.260 and 1979 c 133 s 3;
11 (172) RCW 48.44.270 and 1979 c 133 s 4;
12 (173) RCW 48.44.290 and 1986 c 223 s 6 & 1981 c 175 s 1;
13 (174) RCW 48.44.299 and 1983 c 154 s 1;
14 (175) RCW 48.44.300 and 1986 c 223 s 7 & 1983 c 154 s 2;
15 (176) RCW 48.44.309 and 1983 c 286 s 1;
16 (177) RCW 48.44.310 and 1986 c 223 s 8 & 1983 c 286 s 2;
17 (178) RCW 48.44.320 and 1989 1st ex.s. c 9 s 222, 1988 c 245 s 33,
18 1984 c 22 s 3, & 1983 c 249 s 3;
19 (179) RCW 48.44.325 and 1989 c 338 s 3;
20 (180) RCW 48.44.330 and 1985 c 54 s 7 & 1983 c 113 s 3;
21 (181) RCW 48.44.335 and 1985 c 54 s 3;
22 (182) RCW 48.44.340 and 1987 c 283 s 4, 1986 c 184 s 3, & 1983 c 35
23 s 2;
24 (183) RCW 48.44.344 and 1988 c 276 s 7;
25 (184) RCW 48.44.350 and 1986 c 223 s 9 & 1983 c 202 s 6;
26 (185) RCW 48.44.360 and 1984 c 190 s 5;
27 (186) RCW 48.44.370 and 1984 c 190 s 6;
28 (187) RCW 48.44.380 and 1984 c 190 s 7;
29 (188) RCW 48.44.390 and 1986 c 223 s 10;
30 (189) RCW 48.44.400 and 1986 c 223 s 11;
31 (190) RCW 48.44.410 and 1986 c 223 s 12;
32 (191) RCW 48.44.420 and 1986 c 140 s 4;
33 (192) RCW 48.44.430 and 1987 c 37 s 3;
34 (193) RCW 48.44.440 and 1988 c 173 s 3;
35 (194) RCW 48.44.450 and 1989 c 345 s 1;
36 (195) RCW 48.44.460 and 1989 c 331 s 3;
37 (196) RCW 48.44.470 and 1991 c 87 s 9;
38 (197) RCW 48.45.005 and 1990 c 271 s 20;
39 (198) RCW 48.45.010 and 1990 c 271 s 22;

1 (199) RCW 48.45.020 and 1990 c 271 s 23;
2 (200) RCW 48.45.030 and 1990 c 271 s 24;
3 (201) RCW 48.46.010 and 1975 1st ex.s. c 290 s 2;
4 (202) RCW 48.46.020 and 1990 c 119 s 1, 1983 c 106 s 1, 1982 c 151
5 s 1, & 1975 1st ex. c 290 s 3;
6 (203) RCW 48.46.023 and 1983 c 202 s 8;
7 (204) RCW 48.46.027 and 1983 c 202 s 9;
8 (205) RCW 48.46.030 and 1990 c 119 s 2, 1985 c 320 s 1, 1983 c 106
9 s 2, & 1975 1st ex.s. c 290 s 4;
10 (206) RCW 48.46.040 and 1990 c 119 s 3, 1989 1st ex.s. c 9 s 223,
11 1983 c 106 s 3, & 1975 1st ex.s. c 290 s 5;
12 (207) RCW 48.46.060 and 1989 c 10 s 10;
13 (208) RCW 48.46.066 and 1990 c 187 s 4;
14 (209) RCW 48.46.070 and 1985 c 320 s 3, 1983 c 106 s 5, & 1975 1st
15 ex.s. c 290 s 8;
16 (210) RCW 48.46.080 and 1983 c 202 s 10, 1983 c 106 s 6, & 1975 1st
17 ex.s. c 290 s 9;
18 (211) RCW 48.46.090 and 1975 1st ex.s. c 290 s 10;
19 (212) RCW 48.46.100 and 1975 1st ex.s. c 290 s 11;
20 (213) RCW 48.46.110 and 1983 c 202 s 11 & 1975 1st ex.s. c 290 s
21 12;
22 (214) RCW 48.46.120 and 1987 c 83 s 1, 1986 c 296 s 9, 1985 c 7 s
23 115, 1983 c 63 s 2, & 1975 1st ex.s. c 290 s 13;
24 (215) RCW 48.46.130 and 1975 1st ex.s. c 290 s 14;
25 (216) RCW 48.46.135 and 1983 c 202 s 15;
26 (217) RCW 48.46.140 and 1975 1st ex.s. c 290 s 15;
27 (218) RCW 48.46.150 and 1975 1st ex.s. c 290 s 16;
28 (219) RCW 48.46.160 and 1975 1st ex.s. c 290 s 17;
29 (220) RCW 48.46.170 and 1983 c 106 s 7 & 1975 1st ex.s. c 290 s 18;
30 (221) RCW 48.46.180 and 1975 1st ex.s. c 290 s 19;
31 (222) RCW 48.46.200 and 1975 1st ex.s. c 290 s 21;
32 (223) RCW 48.46.210 and 1975 1st ex.s. c 290 s 22;
33 (224) RCW 48.46.220 and 1975 1st ex.s. c 290 s 23;
34 (225) RCW 48.46.225 and 1990 c 119 s 4;
35 (226) RCW 48.46.235 and 1990 c 119 s 5;
36 (227) RCW 48.46.240 and 1990 c 119 s 6, 1985 c 320 s 4, & 1982 c
37 151 s 3;
38 (228) RCW 48.46.243 and 1990 c 119 s 7;
39 (229) RCW 48.46.245 and 1990 c 119 s 8;

1 (230) RCW 48.46.247 and 1990 c 119 s 9;
2 (231) RCW 48.46.250 and 1984 c 4 s 2 & 1983 c 202 s 12;
3 (232) RCW 48.46.260 and 1983 c 202 s 13;
4 (233) RCW 48.46.270 and 1985 c 320 s 5 & 1983 c 202 s 14;
5 (234) RCW 48.46.275 and 1989 c 338 s 4;
6 (235) RCW 48.46.280 and 1985 c 54 s 8 & 1983 c 113 s 4;
7 (236) RCW 48.46.285 and 1985 c 54 s 4;
8 (237) RCW 48.46.290 and 1987 c 283 s 5, 1986 c 184 s 4, & 1983 c 35
9 s 3;
10 (238) RCW 48.46.300 and 1983 c 106 s 8;
11 (239) RCW 48.46.310 and 1983 c 106 s 9;
12 (240) RCW 48.46.320 and 1985 c 320 s 6 & 1983 c 106 s 10;
13 (241) RCW 48.46.340 and 1983 c 106 s 12;
14 (242) RCW 48.46.350 and 1990 1st ex.s. c 3 s 14, 1987 c 458 s 18,
15 & 1983 c 106 s 13;
16 (243) RCW 48.46.355 and 1987 c 458 s 19;
17 (244) RCW 48.46.360 and 1985 c 7 s 116 & 1983 c 106 s 14;
18 (245) RCW 48.46.370 and 1983 c 106 s 15;
19 (246) RCW 48.46.375 and 1988 c 276 s 8;
20 (247) RCW 48.46.380 and 1983 c 106 s 16;
21 (248) RCW 48.46.390 and 1983 c 106 s 17;
22 (249) RCW 48.46.400 and 1983 c 106 s 18;
23 (250) RCW 48.46.410 and 1983 c 106 s 19;
24 (251) RCW 48.46.420 and 1990 c 119 s 10 & 1983 c 106 s 20;
25 (252) RCW 48.46.430 and 1983 c 106 s 21;
26 (253) RCW 48.46.440 and 1984 c 190 s 8;
27 (254) RCW 48.46.450 and 1984 c 190 s 9;
28 (255) RCW 48.46.460 and 1984 c 190 s 10;
29 (256) RCW 48.46.470 and 1985 c 320 s 7;
30 (257) RCW 48.46.480 and 1985 c 320 s 8;
31 (258) RCW 48.46.490 and 1986 c 140 s 5;
32 (259) RCW 48.46.500 and 1987 c 37 s 4;
33 (260) RCW 48.46.510 and 1988 c 173 s 4;
34 (261) RCW 48.46.520 and 1989 c 345 s 3;
35 (262) RCW 48.46.530 and 1989 c 331 s 4;
36 (263) RCW 48.46.540 and 1991 c 87 s 10;
37 (264) RCW 48.46.900 and 1975 1st ex.s. c 290 s 24;
38 (265) RCW 48.46.905 and 1975 1st ex.s. c 290 s 25;
39 (266) RCW 48.46.910 and 1975 1st ex.s. c 290 s 26;

1 (267) RCW 48.46.920 and 1975 1st ex.s. c 290 s 27;
2 (268) RCW 70.38.015 and 1989 1st ex.s. c 9 s 601, 1983 c 235 s 1,
3 1980 c 139 s 1, & 1979 ex.s. c 161 s 1;
4 (269) RCW 70.38.025 and 1991 c 158 s 1, 1989 1st ex.s. c 9 s 602,
5 1988 c 20 s 1, 1983 1st ex.s. c 41 s 43, 1983 c 235 s 2, 1982 c 119 s
6 1, 1980 c 139 s 2, & 1979 ex.s. c 161 s 2;
7 (270) RCW 70.38.095 and 1975 ex.s. c 161 s 9;
8 (271) RCW 70.38.105 and 1992 c 27 s 1, 1991 sp.s. c 8 s 4, 1989 1st
9 ex.s. c 9 s 603, 1984 c 288 s 21, 1983 c 235 s 7, 1982 c 119 s 2, 1980
10 c 139 s 7, & 1979 ex.s. c 161 s 10;
11 (272) RCW 70.38.111 and 1992 c 27 s 2, 1991 c 158 s 2, 1989 1st
12 ex.s. c 9 s 604, 1982 c 119 s 3, & 1980 c 139 s 9;
13 (273) RCW 70.38.115 and 1989 1st ex.s. c 9 s 605, 1989 c 175 s 126,
14 1984 c 288 s 22, 1983 c 235 s 8, 1980 c 139 s 8, & 1979 ex.s. c 161 s
15 11;
16 (274) RCW 70.38.125 and 1989 1st ex.s. c 9 s 606, 1983 c 235 s 9,
17 1980 c 139 s 10, & 1979 ex.s. c 161 s 12;
18 (275) RCW 70.38.135 and 1989 1st ex.s. c 9 s 607, 1983 c 235 s 10,
19 & 1979 ex.s. c 161 s 13;
20 (276) RCW 70.38.155 and 1979 ex.s. c 161 s 15;
21 (277) RCW 70.38.156 and 1980 c 139 s 11;
22 (278) RCW 70.38.157 and 1983 c 235 s 11;
23 (279) RCW 70.38.158 and 1989 1st ex.s. c 9 s 608;
24 (280) RCW 70.38.220 and 1991 c 271 s 1;
25 (281) RCW 70.38.905 and 1983 c 235 s 12 & 1979 ex.s. c 161 s 16;
26 (282) RCW 70.38.910 and 1983 c 235 s 13 & 1979 ex.s. c 161 s 17;
27 (283) RCW 70.38.911 and 1980 c 139 s 12;
28 (284) RCW 70.38.914 and 1983 c 235 s 14;
29 (285) RCW 70.38.915 and 1979 ex.s. c 161 s 19;
30 (286) RCW 70.38.916 and 1980 c 139 s 14;
31 (287) RCW 70.38.918 and 1989 1st ex.s. c 9 s 609;
32 (288) RCW 70.38.919 and 1989 1st ex.s. c 9 s 610;
33 (289) RCW 70.38.920 and 1979 ex.s. c 161 s 22;
34 (290) RCW 70.43.010 and 1986 c 205 s 1;
35 (291) RCW 70.43.020 and 1986 c 205 s 2;
36 (292) RCW 70.43.030 and 1986 c 205 s 3;
37 (293) RCW 70.170.060 and 1989 1st ex.s. c 9 s 506;
38 (294) RCW 70.170.070 and 1989 1st ex.s. c 9 s 507;

1 (295) RCW 70.170.080 and 1991 sp.s. c 13 s 71 & 1989 1st ex.s. c 9
2 s 508;
3 (296) RCW 70.170.090 and 1989 1st ex.s. c 9 s 509;
4 (297) RCW 18.06.190 and 1991 c 3 s 18 & 1985 c 326 s 519;
5 (298) RCW 18.22.082 and 1990 c 147 s 10;
6 (299) RCW 18.25.040 and 1991 c 320 s 8, 1991 c 3 s 39, 1985 c 7 s
7 15, 1975 1st ex.s. c 30 s 20, 1971 ex.s. c 227 s 6, & 1919 c 5 s 14;
8 (300) RCW 18.29.045 and 1991 c 3 s 47 & 1989 c 202 s 29;
9 (301) RCW 18.32.215 and 1989 c 202 s 30;
10 (302) RCW 18.34.115 and 1991 c 332 s 33;
11 (303) RCW 18.35.085 and 1991 c 332 s 31;
12 (304) RCW 18.36A.120 and 1991 c 3 s 97 & 1987 c 447 s 12;
13 (305) RCW 18.50.065 and 1991 c 332 s 32;
14 (306) RCW 18.52.130 and 1992 c 53 s 9, 1991 c 3 s 121, 1985 c 7 s
15 50, 1975 1st ex.s. c 30 s 55, & 1970 ex.s. c 57 s 13;
16 (307) RCW 18.53.035 and 1991 c 332 s 30;
17 (308) RCW 18.55.105 and 1991 c 180 s 12;
18 (309) RCW 18.57.130 and 1991 c 160 s 10, 1991 c 3 s 151, 1985 c 7
19 s 56, 1979 c 117 s 15, 1975 1st ex.s. c 30 s 59, 1921 c 82 s 1, & 1919
20 c 4 s 17;
21 (310) RCW 18.59.070 and 1984 c 9 s 8;
22 (311) RCW 18.71.090 and 1985 c 322 s 5;
23 (312) RCW 18.74.060 and 1991 c 3 s 179, 1985 c 7 s 64, 1983 c 116
24 s 10, 1975 1st ex.s. c 30 s 66, 1961 c 64 s 5, & 1949 c 239 s 6;
25 (313) RCW 18.78.072 and 1988 c 211 s 3;
26 (314) RCW 18.83.170 and 1991 c 3 s 202, 1984 c 279 s 92, 1975 1st
27 ex.s. c 30 s 76, 1965 c 70 s 17, & 1955 c 305 s 17;
28 (315) RCW 18.88.150 and 1989 c 114 s 6, 1988 c 211 s 5, 1973 c 133
29 s 14, 1961 c 288 s 9, & 1949 c 202 s 15;
30 (316) RCW 18.108.095 and 1987 c 443 s 12;
31 (317) RCW 18.138.050 and 1991 c 3 s 282 & 1988 c 277 s 6;
32 (318) RCW 51.48.280 and 1986 c 200 s 6; and
33 (319) RCW 74.09.240 and 1979 ex.s. c 152 s 5.

34 **Sec. 503.** RCW 43.70.050 and 1989 1st ex.s. c 9 s 107 are each
35 amended to read as follows:

36 (1) The powers and duties of the department under this section are
37 transferred to and shall be performed by the office of the health care
38 commissioner.

1 (2) The legislature intends that the department, board, and council
2 promote and assess the quality, cost, and accessibility of health care
3 throughout the state as their roles are specified in (~~this act~~)
4 chapter 9, Laws of 1989 1st ex.s., in accordance with the provisions of
5 this chapter. In furtherance of this goal, the (~~secretary~~) health
6 care commissioner shall create an ongoing program of data collection,
7 storage, assessability, and review. The legislature does not intend
8 that the department conduct or contract for the conduct of basic
9 research activity. The (~~secretary~~) health care commissioner may
10 request appropriations for studies according to this section from the
11 legislature, the federal government, or private sources.

12 (~~(2)~~) (3) All state agencies which collect or have access to
13 population-based, health-related data are directed to allow the
14 (~~secretary~~) health care commissioner access to such data. This
15 includes, but is not limited to, data on needed health services,
16 facilities, and personnel; future health issues; emerging bioethical
17 issues; health promotion; recommendations from state and national
18 organizations and associations; and programmatic and statutory changes
19 needed to address emerging health needs. Private entities, such as
20 insurance companies, health maintenance organizations, and private
21 purchasers are also encouraged to give the secretary access to such
22 data in their possession. The (~~secretary's~~) commissioner's access to
23 and use of all data shall be in accordance with state and federal
24 confidentiality laws and ethical guidelines. Such data in any form
25 where the patient or provider of health care can be identified shall
26 not be disclosed, subject to disclosure according to chapter 42.17 RCW,
27 discoverable or admissible in judicial or administrative proceedings.
28 Such data can be used in proceedings in which the use of the data is
29 clearly relevant and necessary and both the (~~department~~) office of
30 the health care commissioner and the patient or provider are parties.

31 (~~(3)~~) (4) The (~~department~~) office of the health care
32 commissioner shall serve as the clearinghouse for information
33 concerning innovations in the delivery of health care services, the
34 enhancement of competition in the health care marketplace, and federal
35 and state information affecting health care costs.

36 (~~(4)~~) (5) The (~~secretary~~) health care commissioner shall review
37 any data collected, pursuant to this chapter, to:

38 (a) Identify high-priority health issues that require study or
39 evaluation. Such issues may include, but are not limited to:

1 (i) Identification of variations of health practice which indicate
2 a lack of consensus of appropriateness;

3 (ii) Evaluation of outcomes of health care interventions to assess
4 their benefit to the people of the state;

5 (iii) Evaluation of specific population groups to identify needed
6 changes in health practices and services;

7 (iv) Evaluation of the risks and benefits of various incentives
8 aimed at individuals and providers for both preventing illnesses and
9 improving health services;

10 (v) Identification and evaluation of bioethical issues affecting
11 the people of the state; and

12 (vi) Other such objectives as may be appropriate;

13 (b) Further identify a list of high-priority health study issues
14 for consideration by the board or council, within their authority, for
15 inclusion in the state health report required by RCW 43.20.050. The
16 list shall specify the objectives of each study, a study timeline, the
17 specific improvements in the health status of the citizens expected as
18 a result of the study, and the estimated cost of the study; and

19 (c) Provide background for the state health report required by RCW
20 43.20.050.

21 ~~((+5))~~ (6) Any data, research, or findings may also be made
22 available to the general public, including health professions, health
23 associations, the governor, professional boards and regulatory agencies
24 and any person or group who has allowed the secretary access to data.

25 ~~((+6))~~ (7) The ~~((secretary))~~ health care commissioner may charge
26 a fee to persons requesting copies of any data, research, or findings.
27 The fee shall be no more than necessary to cover the cost to the
28 ~~((department))~~ office of the health care commissioner of providing the
29 copy.

30 **Sec. 504.** RCW 43.70.060 and 1989 1st ex.s. c 9 s 108 are each
31 amended to read as follows:

32 (1) The powers and duties of the department under this section are
33 transferred to and shall be performed by the office of the health care
34 commissioner.

35 (2) It is the intent of the legislature to promote appropriate use
36 of health care resources to maximize access to adequate health care
37 services. The legislature understands that the rapidly increasing
38 costs of health care are limiting access to care. To promote health

1 care cost-effectiveness, the ((department)) office of the health care
2 commissioner shall:

3 ((+1)) (a) Implement the certificate of need program;

4 ((+2)) (b) Monitor and evaluate health care costs;

5 ((+3)) (c) Evaluate health services and the utilization of
6 services for outcome and effectiveness; and

7 ((+4)) (d) Recommend strategies to encourage adequate and cost-
8 effective services and discourage ineffective services.

9 **Sec. 505.** RCW 43.70.070 and 1989 1st ex.s. c 9 s 109 are each
10 amended to read as follows:

11 (1) The powers and duties of the department under this section are
12 transferred to and shall be performed by the office of the health care
13 commissioner.

14 (2) The ((department)) office of the health care commissioner shall
15 evaluate and analyze readily available data and information to
16 determine the outcome and effectiveness of health services, utilization
17 of services, and payment methods. This section should not be construed
18 as allowing the ((department)) office of the health care commissioner
19 access to proprietary information.

20 (1) The ((department)) office of the health care commissioner shall
21 make its evaluations available to the board and the council for use in
22 preparation of the state health report required by RCW 43.20.050, and
23 to consumers, purchasers, and providers of health care.

24 (2) The ((department)) office of the health care commissioner, with
25 advice from the council shall use the information to:

26 (a) Develop guidelines which may be used by consumers, purchasers,
27 and providers of health care to encourage necessary and cost-effective
28 services; and

29 (b) Make recommendations to the governor on how state government
30 and private purchasers may be prudent purchasers of cost-effective,
31 adequate health services.

32 **Sec. 506.** RCW 18.19.160 and 1991 c 3 s 31 are each amended to read
33 as follows:

34 ~~((1) Upon receiving a written application, evidence of~~
35 ~~qualification and the required fee, the department shall issue a~~
36 ~~certificate for certification without examination to an applicant who~~
37 ~~is currently credentialed under the laws of another jurisdiction, if~~

1 ~~the requirements of the other jurisdiction are substantially equal to~~
2 ~~the requirements of this chapter.~~

3 (2)) A person certified under this chapter who is or desires to be
4 temporarily retired from practice in this state shall send written
5 notice to the secretary. Upon receipt of the notice, the person shall
6 be placed upon the nonpracticing list. While on the list, the person
7 is not required to pay the renewal fees and shall not engage in any
8 such practice. In order to resume practice, application for renewal
9 shall be made in the ordinary course with the renewal fee for the
10 current period. Persons in a nonpracticing status for a period
11 exceeding five years shall provide evidence of current knowledge or
12 skill, by examination, as the secretary may require.

13 **Sec. 507.** RCW 18.64.080 and 1989 1st ex.s. c 9 ss 403, 420 and
14 1989 c 352 s 3 are each reenacted and amended to read as follows:

15 (1) The department may license as a pharmacist any person who has
16 filed an application therefor, subscribed by the person under oath or
17 affirmation, containing such information as the board may by regulation
18 require, and who--

19 (a) Is at least eighteen years of age;

20 (b) Has satisfied the board that he or she is of good moral and
21 professional character, that he or she will carry out the duties and
22 responsibilities required of a pharmacist, and that he or she is not
23 unfit or unable to practice pharmacy by reason of the extent or manner
24 of his or her proven use of alcoholic beverages, drugs, or controlled
25 substances, or by reason of a proven physical or mental disability;

26 (c) Holds a baccalaureate degree in pharmacy or a doctor of
27 pharmacy degree granted by a school or college of pharmacy which is
28 accredited by the board of pharmacy;

29 (d) Has completed or has otherwise met the internship requirements
30 as set forth in board rules;

31 (e) Has satisfactorily passed the necessary examinations approved
32 by the board and administered by the department.

33 (2) The department shall, at least once in every calendar year,
34 offer an examination to all applicants for a pharmacist license who
35 have completed their educational and internship requirements pursuant
36 to rules promulgated by the board. The examination shall be determined
37 by the board. In case of failure at a first examination, the applicant
38 shall have within three years the privilege of a second and third

1 examination. In case of failure in a third examination, the applicant
2 shall not be eligible for further examination until he or she has
3 satisfactorily completed additional preparation as directed and
4 approved by the board. The applicant must pay the examination fee
5 determined by the secretary for each examination taken. Upon passing
6 the required examinations and complying with all the rules and
7 regulations of the board and the provisions of this chapter, the
8 department shall grant the applicant a license as a pharmacist and
9 issue to him or her a certificate qualifying him or her to enter into
10 the practice of pharmacy.

11 (3) Any person enrolled as a student of pharmacy in an accredited
12 college may file with the department an application for registration as
13 a pharmacy intern in which application he or she shall be required to
14 furnish such information as the board may, by regulation, prescribe
15 and, simultaneously with the filing of said application, shall pay to
16 the department a fee to be determined by the secretary. All
17 certificates issued to pharmacy interns shall be valid for a period to
18 be determined by the board, but in no instance shall the certificate be
19 valid if the individual is no longer making timely progress toward
20 graduation, provided however, the board may issue an intern certificate
21 to a person to complete an internship to be eligible for initial
22 licensure or for the reinstatement of a previously licensed pharmacist.

23 (4) To assure adequate practical instruction, pharmacy internship
24 experience as required under this chapter shall be obtained after
25 registration as a pharmacy intern by practice in any licensed pharmacy
26 or other program meeting the requirements promulgated by regulation of
27 the board, and shall include such instruction in the practice of
28 pharmacy as the board by regulation shall prescribe.

29 ~~(5) ((The department may, without examination other than one in
30 the laws relating to the practice of pharmacy, license as a pharmacist
31 any person who, at the time of filing application therefor, is
32 currently licensed as a pharmacist in any other state, territory, or
33 possession of the United States. The person shall produce evidence
34 satisfactory to the department of having had the required secondary and
35 professional education and training and who was licensed as a
36 pharmacist by examination in another state prior to June 13, 1963,
37 shall be required to satisfy only the requirements which existed in
38 this state at the time he or she became licensed in such other state,
39 and that the state in which the person is licensed shall under similar~~

1 ~~conditions grant reciprocal licenses as pharmacist without examination~~
2 ~~to pharmacists duly licensed by examination in this state. Every~~
3 ~~application under this subsection shall be accompanied by a fee~~
4 ~~determined by the department.~~

5 (6)) The department shall provide for, regulate, and require all
6 persons licensed as pharmacists to renew their license periodically,
7 and shall prescribe the form of such license and information required
8 to be submitted by all applicants.

9 NEW SECTION. Sec. 508. CODIFICATION. (1) Sections 201 through
10 306, 308 through 313, 316, and 317 of this act shall constitute a new
11 chapter in Title 70 RCW.

12 (2) Sections 314 and 315 of this act are each added to Title 51
13 RCW.

14 (3) Sections 402 through 407 of this act are each added to chapter
15 7.70 RCW.

16 (4) Section 307 of this act is added to chapter 43.70 RCW.

17 NEW SECTION. Sec. 509. (1) Sections 101 through 111 of this act
18 are necessary for the immediate preservation of the public peace,
19 health, or safety, or support of the state government and its existing
20 public institutions, and shall take effect immediately.

21 (2) Sections 112 through 148 of this act shall take effect
22 September 1, 1993.

23 (3) Sections 201 through 407 of this act shall take effect January
24 1, 1994.

25 NEW SECTION. Sec. 510. If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. Sec. 511. CAPTIONS NOT LAW. Captions and part
30 headings as used in this act constitute no part of the law.

--- END ---