

---

SENATE BILL 5519

---

State of Washington

53rd Legislature

1993 Regular Session

By Senators Talmadge, Moyer, Wojahn, Deccio and Prentice; by request of Department of Health

Read first time 02/01/93. Referred to Committee on Health & Human Services.

1 AN ACT Relating to the disciplining of health professionals;  
2 amending RCW 18.130.040, 18.130.160, 18.130.175, 18.130.185,  
3 18.130.186, 18.130.300, 18.135.070, 18.64.160, 18.64A.050, 18.72.340,  
4 18.72.380, 18.130.190, 18.130.165, and 18.130.050; adding a new section  
5 to chapter 18.135 RCW; adding a new section to chapter 18.64 RCW;  
6 adding a new section to chapter 18.64A RCW; repealing RCW 18.135.080,  
7 18.64.260, and 18.71A.070; and prescribing penalties.

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

9 **Sec. 1.** RCW 18.130.040 and 1992 c 128 s 6 are each amended to read  
10 as follows:

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

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

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

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

1 (iii) Midwives licensed under chapter 18.50 RCW;  
2 (iv) Ocularists licensed under chapter 18.55 RCW;  
3 (v) Massage operators and businesses licensed under chapter 18.108  
4 RCW;  
5 (vi) Dental hygienists licensed under chapter 18.29 RCW;  
6 (vii) Acupuncturists certified under chapter 18.06 RCW;  
7 (viii) Radiologic technologists certified under chapter 18.84 RCW;  
8 (ix) Respiratory care practitioners certified under chapter 18.89  
9 RCW;  
10 (x) Persons registered or certified under chapter 18.19 RCW;  
11 (xi) Persons registered as nursing pool operators;  
12 (xii) Nursing assistants registered or certified under chapter  
13 (~~18.52B~~) 18.88A RCW;  
14 (xiii) Health care assistants certified under chapter 18.135 RCW;  
15 (xiv) Dietitians and nutritionists certified under chapter 18.138  
16 RCW;  
17 (~~(xiv)~~) (xv) Sex offender treatment providers certified under  
18 chapter 18.155 RCW; and  
19 (~~(xv)~~) (xvi) Persons licensed and certified under chapter 18.73  
20 RCW or RCW 18.71.205.  
21 (b) The boards having authority under this chapter are as follows:  
22 (i) The podiatric medical board as established in chapter 18.22  
23 RCW;  
24 (ii) The chiropractic disciplinary board as established in chapter  
25 18.26 RCW governing licenses issued under chapter 18.25 RCW;  
26 (iii) The dental disciplinary board as established in chapter 18.32  
27 RCW;  
28 (iv) The council on hearing aids as established in chapter 18.35  
29 RCW;  
30 (v) (~~The board of funeral directors and embalmers as established~~  
31 ~~in chapter 18.39 RCW~~;  
32 ~~(vi)~~) The board of examiners for nursing home administrators as  
33 established in chapter 18.52 RCW;  
34 (~~(vii)~~) (vi) The optometry board as established in chapter 18.54  
35 RCW governing licenses issued under chapter 18.53 RCW;  
36 (~~(viii)~~) (vii) The board of osteopathic medicine and surgery as  
37 established in chapter 18.57 RCW governing licenses issued under  
38 chapters 18.57 and 18.57A RCW;

1       (~~(ix)~~) (viii) The board of pharmacy as established in chapter  
2 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A  
3 RCW;

4       (ix) The medical disciplinary board as established in chapter 18.72  
5 RCW governing licenses and registrations issued under chapters 18.71  
6 and 18.71A RCW;

7       (x) The board of physical therapy as established in chapter 18.74  
8 RCW;

9       (xi) The board of occupational therapy practice as established in  
10 chapter 18.59 RCW;

11       (xii) The board of practical nursing as established in chapter  
12 18.78 RCW;

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

15       (xiv) The board of nursing as established in chapter 18.88 RCW; and

16       (xv) The veterinary board of governors as established in chapter  
17 18.92 RCW.

18       (3) In addition to the authority to discipline license holders, the  
19 disciplining authority has the authority to grant or deny licenses  
20 based on the conditions and criteria established in this chapter and  
21 the chapters specified in subsection (2) of this section. However, the  
22 board of chiropractic examiners has authority over issuance and denial  
23 of licenses provided for in chapter 18.25 RCW, the board of dental  
24 examiners has authority over issuance and denial of licenses provided  
25 for in RCW 18.32.040, and the board of medical examiners has authority  
26 over issuance and denial of licenses and registrations provided for in  
27 chapters 18.71 and 18.71A RCW. This chapter also governs any  
28 investigation, hearing, or proceeding relating to denial of licensure  
29 or issuance of a license conditioned on the applicant's compliance with  
30 an order entered pursuant to RCW 18.130.160 by the disciplining  
31 authority.

32       **Sec. 2.** RCW 18.130.160 and 1986 c 259 s 8 are each amended to read  
33 as follows:

34       Upon a finding that a license holder or applicant has committed  
35 unprofessional conduct or is unable to practice with reasonable skill  
36 and safety due to a physical or mental condition, the disciplining  
37 authority may issue an order providing for one or any combination of  
38 the following:

- 1 (1) Revocation of the license;
- 2 (2) Suspension of the license for a fixed or indefinite term;
- 3 (3) Restriction or limitation of the practice;
- 4 (4) Requiring the satisfactory completion of a specific program of
- 5 remedial education or treatment;
- 6 (5) The monitoring of the practice by a supervisor approved by the
- 7 disciplining authority;
- 8 (6) Censure or reprimand;
- 9 (7) Compliance with conditions of probation for a designated period
- 10 of time;
- 11 (8) Payment of a fine for each violation of this chapter, not to
- 12 exceed (~~one~~) five thousand dollars per violation. Funds received
- 13 shall be placed in the health professions account;
- 14 (9) Denial of the license request;
- 15 (10) Corrective action;
- 16 (11) Refund of fees billed to and collected from the consumer.

17 Any of the actions under this section may be totally or partly  
18 stayed by the disciplining authority. In determining what action is  
19 appropriate, the disciplining authority must first consider what  
20 sanctions are necessary to protect or compensate the public. Only  
21 after such provisions have been made may the disciplining authority  
22 consider and include in the order requirements designed to rehabilitate  
23 the license holder or applicant. All costs associated with compliance  
24 with orders issued under this section are the obligation of the license  
25 holder or applicant.

26 **Sec. 3.** RCW 18.130.175 and 1991 c 3 s 270 are each amended to read  
27 as follows:

28 (1) In lieu of disciplinary action under RCW 18.130.160 and if the  
29 disciplining authority determines that the unprofessional conduct may  
30 be the result of substance abuse, the disciplining authority may refer  
31 the license holder to a voluntary substance abuse monitoring program  
32 approved by the disciplining authority.

33 The cost of the treatment shall be the responsibility of the  
34 license holder, but the responsibility does not preclude payment by an  
35 employer, existing insurance coverage, or other sources. Primary  
36 alcoholism or drug treatment shall be provided by approved treatment  
37 facilities under RCW 70.96A.020(~~(+2)~~): PROVIDED, That nothing shall  
38 prohibit the disciplining authority from approving additional services

1 and programs as an adjunct to primary alcoholism or drug treatment.  
2 The disciplining authority may also approve the use of out-of-state  
3 programs. Referral of the license holder to the program shall be done  
4 only with the consent of the license holder. Referral to the program  
5 may also include probationary conditions for a designated period of  
6 time. If the license holder does not consent to be referred to the  
7 program or does not successfully complete the program, the disciplining  
8 authority may take appropriate action under RCW 18.130.160.

9 (2) In addition to approving substance abuse monitoring programs  
10 that may receive referrals from the disciplining authority, the  
11 disciplining authority may establish by rule requirements for  
12 participation of license holders who are not being investigated or  
13 monitored by the disciplining authority for substance abuse. License  
14 holders voluntarily participating in the approved programs without  
15 being referred by the disciplining authority shall not be subject to  
16 disciplinary action under RCW 18.130.160 for their substance abuse, and  
17 shall not have their participation made known to the disciplining  
18 authority, if they meet the requirements of this section and the  
19 program in which they are participating.

20 (3) The license holder shall sign a waiver allowing the program to  
21 release information to the disciplining authority if the licensee does  
22 not comply with the requirements of this section or is unable to  
23 practice with reasonable skill or safety. The substance abuse program  
24 shall report to the disciplining authority any license holder who fails  
25 to comply with the requirements of this section or the program or who,  
26 in the opinion of the program, is unable to practice with reasonable  
27 skill or safety. License holders shall report to the disciplining  
28 authority if they fail to comply with this section or do not complete  
29 the program's requirements. License holders may, upon the agreement of  
30 the program and disciplining authority, reenter the program if they  
31 have previously failed to comply with this section.

32 (4) The treatment and pretreatment records of license holders  
33 referred to or voluntarily participating in approved programs shall be  
34 confidential, shall be exempt from RCW 42.17.250 through 42.17.450, and  
35 shall not be subject to discovery by subpoena or admissible as evidence  
36 except for monitoring records reported to the disciplining authority  
37 for cause as defined in subsection (3) of this section. Monitoring  
38 records relating to license holders referred to the program by the  
39 disciplining authority or relating to license holders reported to the

1 disciplining authority by the program for cause, shall be released to  
2 the disciplining authority at the request of the disciplining  
3 authority. Records held by the disciplining authority under this  
4 section shall be exempt from RCW 42.17.250 through 42.17.450 and shall  
5 not be subject to discovery by subpoena except by the license holder.

6 (5) "Substance abuse," as used in this section, means the  
7 impairment, as determined by the disciplining authority, of a license  
8 holder's professional services by an addiction to, a dependency on, or  
9 the use of alcohol, legend drugs, or controlled substances.

10 (6) This section does not affect an employer's right or ability to  
11 make employment-related decisions regarding a license holder. This  
12 section does not restrict the authority of the disciplining authority  
13 to take disciplinary action for any other unprofessional conduct.

14 (7) A person who, in good faith, reports information or takes  
15 action in connection with this section is immune from civil liability  
16 for reporting information or taking the action.

17 (a) The immunity from civil liability provided by this section  
18 shall be liberally construed to accomplish the purposes of this section  
19 and the persons entitled to immunity shall include:

20 (i) An approved monitoring treatment program;

21 (ii) The professional association operating the program;

22 (iii) Members, employees, or agents of the program or association;

23 (iv) Persons reporting a license holder as being impaired or  
24 providing information about the license holder's impairment; and

25 (v) Professionals supervising or monitoring the course of the  
26 impaired license holder's treatment or rehabilitation.

27 (b) The immunity provided in this section is in addition to any  
28 other immunity provided by law.

29 ~~((8) In addition to health care professionals governed by this  
30 chapter, this section also applies to pharmacists under chapter 18.64  
31 RCW and pharmacy assistants under chapter 18.64A RCW. For that  
32 purpose, the board of pharmacy shall be deemed to be the disciplining  
33 authority and the substance abuse monitoring program shall be in lieu  
34 of disciplinary action under RCW 18.64.160 or 18.64A.050. The board of  
35 pharmacy shall adjust license fees to offset the costs of this  
36 program.))~~

37 **Sec. 4.** RCW 18.130.185 and 1987 c 150 s 8 are each amended to read  
38 as follows:

1 If a person or business regulated by this chapter violates RCW  
2 18.130.170 or 18.130.180, the attorney general, any prosecuting  
3 attorney, the ((~~director~~)) secretary, the board, or any other person  
4 may maintain an action in the name of the state of Washington to enjoin  
5 the person from committing the violations. The injunction shall not  
6 relieve the offender from criminal prosecution, but the remedy by  
7 injunction shall be in addition to the liability of the offender to  
8 criminal prosecution and disciplinary action.

9 **Sec. 5.** RCW 18.130.186 and 1989 c 125 s 3 are each amended to read  
10 as follows:

11 (1) To implement a substance abuse monitoring program for license  
12 holders specified under RCW 18.130.040, who are impaired by substance  
13 abuse, the disciplinary authority may enter into a contract with a  
14 voluntary substance abuse program under RCW 18.130.175. The program  
15 may include any or all of the following:

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

27 (2) A contract entered into under subsection (1) of this section  
28 may be financed by a surcharge on each license issuance or renewal to  
29 be collected by the department of ((~~licensing~~)) health from the license  
30 holders of the same regulated health profession. These moneys shall be  
31 placed in the health professions account to be used solely for the  
32 implementation of the program.

33 **Sec. 6.** RCW 18.130.300 and 1984 c 279 s 21 are each amended to  
34 read as follows:

35 The ((~~director~~)) secretary, members of the boards, or individuals  
36 acting on their behalf are immune from suit in any action, civil or

1 criminal, based on any disciplinary proceedings or other official acts  
2 performed in the course of their duties.

3 **Sec. 7.** RCW 18.135.070 and 1984 c 281 s 7 are each amended to read  
4 as follows:

5 The licensing authority of health care facilities or the  
6 (~~disciplinary board~~) disciplining authority of the delegating or  
7 supervising health care practitioner shall investigate all complaints  
8 or allegations of violations of proper certification of a health care  
9 assistant or violations of delegation of authority or supervision. A  
10 substantiated violation shall constitute sufficient cause for  
11 disciplinary action by the licensing authority of a health care  
12 facility or the (~~disciplinary board~~) disciplining authority of the  
13 health care practitioner.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.135 RCW  
15 to read as follows:

16 The uniform disciplinary act, chapter 18.130 RCW, governs  
17 uncertified practice, the issuance and denial of certificates, and the  
18 discipline of certificate holders under this chapter. The secretary  
19 shall be the disciplining authority under this chapter.

20 **Sec. 9.** RCW 18.64.160 and 1985 c 7 s 60 are each amended to read  
21 as follows:

22 In addition to the grounds under RCW 18.130.170 and 18.130.180, the  
23 board of pharmacy (~~shall have the power to refuse, suspend, or~~  
24 ~~revoke~~) may take disciplinary action against the license of any  
25 pharmacist or intern upon proof that:

26 (1) His or her license was procured through fraud,  
27 misrepresentation, or deceit;

28 (2) (~~He or she has been convicted of a felony relating to his or~~  
29 ~~her practice as a pharmacist;~~

30 (3) ~~He or she has committed any act involving moral turpitude,~~  
31 ~~dishonesty, or corruption, if the act committed directly relates to the~~  
32 ~~pharmacist's fitness to practice pharmacy. Upon such conviction,~~  
33 ~~however, the judgment and sentence shall be conclusive evidence at the~~  
34 ~~ensuing disciplinary hearing of the guilt of the respondent pharmacist~~  
35 ~~of the crime described in the indictment or information, and of his or~~  
36 ~~her violation of the statute upon which it is based;~~



1       ~~(4) He or she is unfit to practice pharmacy because of habitual~~  
2 ~~intemperance in the use of alcoholic beverages, drugs, controlled~~  
3 ~~substances, or any other substance which impairs the performance of~~  
4 ~~professional duties;~~

5       ~~(5) He or she exhibits behavior which may be due to physical or~~  
6 ~~mental impairment, which creates an undue risk of causing harm to him~~  
7 ~~or herself or to other persons when acting as a licensed pharmacist or~~  
8 ~~intern;~~

9       ~~(6) He or she has incompetently or negligently practiced pharmacy,~~  
10 ~~creating an unreasonable risk of harm to any individual;~~

11       ~~(7) His or her legal authority to practice pharmacy, issued by any~~  
12 ~~other properly constituted licensing authority of any other state, has~~  
13 ~~been and is currently suspended or revoked;~~

14       ~~(8))~~) In the event that a pharmacist is determined by a court of  
15 competent jurisdiction to be mentally incompetent, the pharmacist shall  
16 automatically have his or her license suspended by the board upon the  
17 entry of the judgment, regardless of the pendency of an appeal;

18       ~~((9))~~) (3) He or she has knowingly violated or permitted the  
19 violation of any provision of any state or federal law, rule, or  
20 regulation governing the possession, use, distribution, or dispensing  
21 of drugs, including, but not limited to, the violation of any provision  
22 of this chapter, Title 69 RCW, or rule or regulation of the board;

23       ~~((10))~~) (4) He or she has knowingly allowed any unlicensed person  
24 to take charge of a pharmacy or engage in the practice of pharmacy,  
25 except a pharmacy intern or pharmacy assistant acting as authorized in  
26 this chapter or chapter 18.64A RCW in the presence of and under the  
27 immediate supervision of a licensed pharmacist;

28       ~~((11))~~) (5) He or she has compounded, dispensed, or caused the  
29 compounding or dispensing of any drug or device which contains more or  
30 less than the equivalent quantity of ingredient or ingredients  
31 specified by the person who prescribed such drug or device: PROVIDED,  
32 HOWEVER, That nothing herein shall be construed to prevent the  
33 pharmacist from exercising professional judgment in the preparation or  
34 providing of such drugs or devices.

35       ~~((In any case of the refusal, suspension, or revocation of a~~  
36 ~~license by said board of pharmacy under the provisions of this chapter,~~  
37 ~~said board shall proceed in accordance with chapter 34.05 RCW.))~~

1        NEW SECTION. Sec. 10. A new section is added to chapter 18.64 RCW  
2 to read as follows:

3        The uniform disciplinary act, chapter 18.130 RCW, governs  
4 unlicensed practice, the issuance and denial of licenses of pharmacists  
5 and pharmacy interns, and the discipline of licensed pharmacists and  
6 pharmacy interns under this chapter.

7        **Sec. 11.** RCW 18.64A.050 and 1989 1st ex.s. c 9 s 424 are each  
8 amended to read as follows:

9        In addition to the grounds under RCW 18.130.170 and 18.130.180, the  
10 board of pharmacy (~~shall have the power to refuse, suspend, or~~  
11 ~~revoke~~) may take disciplinary action against the certificate of any  
12 pharmacy assistant upon proof that:

13        (1) His or her certificate was procured through fraud,  
14 misrepresentation or deceit;

15        (2) He or she has been found guilty of any offense in violation of  
16 the laws of this state relating to drugs, poisons, cosmetics or drug  
17 sundries by any court of competent jurisdiction. Nothing herein shall  
18 be construed to affect or alter the provisions of RCW 9.96A.020;

19        (~~3) ((He or she is unfit to perform his or her duties because of~~  
20 ~~habitual intoxication or abuse of controlled substances;~~

21        ~~(4))~~ (4) He or she has exhibited gross incompetency in the performance  
22 of his or her duties;

23        (~~(5))~~ (4) He or she has willfully or repeatedly violated any of  
24 the rules and regulations of the board of pharmacy or of the  
25 department;

26        (~~(6))~~ (5) He or she has willfully or repeatedly performed duties  
27 beyond the scope of his or her certificate in violation of the  
28 provisions of this chapter; or

29        (~~(7))~~ (6) He or she has impersonated a licensed pharmacist.

30        (~~In any case of the refusal, suspension or revocation of a~~  
31 ~~certificate by the board, a hearing shall be conducted in accordance~~  
32 ~~with RCW 18.64.160, as now or hereafter amended, and appeal may be~~  
33 ~~taken in accordance with the Administrative Procedure Act, chapter~~  
34 ~~34.05 RCW.))~~

35        NEW SECTION. Sec. 12. A new section is added to chapter 18.64A  
36 RCW to read as follows:

1 The uniform disciplinary act, chapter 18.130 RCW, governs the  
2 issuance and denial of certificates and the discipline of certificants  
3 under this chapter.

4 **Sec. 13.** RCW 18.72.340 and 1986 c 300 s 6 are each amended to read  
5 as follows:

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

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

21 **Sec. 14.** RCW 18.72.380 and 1991 c 3 s 170 are each amended to read  
22 as follows:

23 There is hereby levied to be collected by the department of health  
24 from every physician and surgeon licensed pursuant to chapter 18.71 RCW  
25 and every physician assistant licensed pursuant to chapter 18.71A RCW  
26 an annual medical disciplinary assessment equal to the license renewal  
27 fee established under RCW 43.70.250. The assessment levied pursuant to  
28 this (~~subsection~~) section is in addition to any license renewal fee  
29 established under RCW 43.70.250.

30 **Sec. 15.** RCW 18.130.190 and 1991 c 3 s 271 are each amended to  
31 read as follows:

32 (1) The secretary shall investigate complaints concerning practice  
33 by unlicensed persons of a profession or business for which a license  
34 is required by the chapters specified in RCW 18.130.040. In the  
35 investigation of the complaints, the secretary shall have the same  
36 authority as provided the secretary under RCW 18.130.050. (~~The~~

1 ~~secretary shall issue a cease and desist order to a person after notice~~  
2 ~~and hearing and upon a determination that the person has violated this~~  
3 ~~subsection.))~~

4 (2) The secretary may issue a notice of intention to issue a cease  
5 and desist order to any person whom the secretary has reason to believe  
6 is engaged in the unlicensed practice of a profession or business for  
7 which a license is required by the chapters specified in RCW  
8 18.130.040. The person to whom such notice is issued may request an  
9 adjudicative proceeding to contest the charges. The request for  
10 hearing must be filed within twenty days after service of the notice of  
11 intention to issue a cease and desist order. The failure to request a  
12 hearing constitutes a default, whereupon the secretary may enter a  
13 permanent cease and desist order, which may include a civil fine. All  
14 proceedings shall be conducted in accordance with chapter 34.05 RCW.

15 (3) If the secretary makes a final determination that a person has  
16 engaged or is engaging in unlicensed practice, the secretary may issue  
17 a cease and desist order. In addition, the secretary may impose a  
18 civil fine in an amount not exceeding one thousand dollars for each day  
19 upon which the person engaged in unlicensed practice of a business or  
20 profession for which a license is required by one or more of the  
21 chapters specified in RCW 18.130.040. The proceeds of such fines shall  
22 be deposited to the health professions account.

23 (4) If the secretary makes a written finding of fact that the  
24 public interest will be irreparably harmed by delay in issuing an  
25 order, the secretary may issue a temporary cease and desist order. The  
26 person receiving a temporary cease and desist order shall be provided  
27 an opportunity for a prompt hearing. The temporary cease and desist  
28 order shall remain in effect until further order of the secretary. The  
29 failure to request a prompt or regularly scheduled hearing constitutes  
30 a default, whereupon the secretary may enter a permanent cease and  
31 desist order, which may include a civil fine.

32 (5) Neither the issuance of a cease and desist order nor payment of  
33 a civil fine shall ((not)) relieve the person so practicing or  
34 operating a business without a license from criminal prosecution  
35 therefor, but the remedy of a cease and desist order or civil fine  
36 shall be in addition to any criminal liability. The cease and desist  
37 order is conclusive proof of unlicensed practice and may be enforced  
38 under RCW 7.21.060. This method of enforcement of the cease and desist  
39 order or civil fine may be used in addition to, or as an alternative

1 to, any provisions for enforcement of agency orders set out in chapter  
2 34.05 RCW.

3 ~~((2))~~ (6) The attorney general, a county prosecuting attorney,  
4 the secretary, a board, or any person may in accordance with the laws  
5 of this state governing injunctions, maintain an action in the name of  
6 this state to enjoin any person practicing a profession or business for  
7 which a license is required by the chapters specified in RCW 18.130.040  
8 without a license from engaging in such practice or operating such  
9 business until the required license is secured. However, the  
10 injunction shall not relieve the person so practicing or operating a  
11 business without a license from criminal prosecution therefor, but the  
12 remedy by injunction shall be in addition to any criminal liability.

13 ~~((3))~~ (7) Unlicensed practice of a profession or operating a  
14 business for which a license is required by the chapters specified in  
15 RCW 18.130.040, unless otherwise exempted by law, constitutes a gross  
16 misdemeanor. All fees, fines, forfeitures, and penalties collected or  
17 assessed by a court because of a violation of this section shall be  
18 remitted to the health professions account.

19 **Sec. 16.** RCW 18.130.165 and 1987 c 150 s 4 are each amended to  
20 read as follows:

21 Where an order for payment of a fine is made as a result of a  
22 hearing under RCW 18.130.100 or 18.130.190 and timely payment is not  
23 made as directed in the final order, the disciplining authority may  
24 enforce the order for payment in the superior court in the county in  
25 which the hearing was held. This right of enforcement shall be in  
26 addition to any other rights the disciplining authority may have as to  
27 any licensee ordered to pay a fine but shall not be construed to limit  
28 a licensee's ability to seek judicial review under RCW 18.130.140.

29 In any action for enforcement of an order of payment of a fine, the  
30 disciplining authority's order is conclusive proof of the validity of  
31 the order of payment of a fine and the terms of payment.

32 **Sec. 17.** RCW 18.130.050 and 1987 c 150 s 2 are each amended to  
33 read as follows:

34 The disciplining authority has the following authority:

35 (1) To adopt, amend, and rescind such rules as are deemed necessary  
36 to carry out this chapter;

- 1       (2) To investigate all complaints or reports of unprofessional  
2 conduct as defined in this chapter and to hold hearings as provided in  
3 this chapter;
- 4       (3) To issue subpoenas and administer oaths in connection with any  
5 investigation, hearing, or proceeding held under this chapter;
- 6       (4) To take or cause depositions to be taken and use other  
7 discovery procedures as needed in any investigation, hearing, or  
8 proceeding held under this chapter;
- 9       (5) To compel attendance of witnesses at hearings;
- 10       (6) In the course of investigating a complaint or report of  
11 unprofessional conduct, to conduct practice reviews;
- 12       (7) To take emergency action ordering summary suspension of a  
13 license, or restriction or limitation of the licensee's practice  
14 pending proceedings by the disciplining authority;
- 15       (8) To use the office of administrative hearings as authorized in  
16 chapter 34.12 RCW to conduct hearings. However, the disciplining  
17 authority shall make the final decision regarding disposition of the  
18 license;
- 19       (9) To use individual members of the boards to direct  
20 investigations. However, the member of the board shall not  
21 subsequently participate in the hearing of the case;
- 22       (10) To enter into contracts for professional services determined  
23 to be necessary for adequate enforcement of this chapter;
- 24       (11) To contract with licensees or other persons or organizations  
25 to provide services necessary for the monitoring and supervision of  
26 licensees who are placed on probation, whose professional activities  
27 are restricted, or who are for any authorized purpose subject to  
28 monitoring by the disciplining authority;
- 29       (12) To adopt standards of professional conduct or practice;
- 30       (13) To grant or deny license applications, and in the event of a  
31 finding of unprofessional conduct by an applicant or license holder, to  
32 impose any sanction against a license applicant or license holder  
33 provided by this chapter;
- 34       (14) To enter into an assurance of discontinuance in lieu of  
35 issuing a statement of charges or conducting a hearing. The assurance  
36 shall consist of a statement of the law in question and an agreement to  
37 not violate the stated provision. The applicant or license holder  
38 shall not be required to admit to any violation of the law, nor shall

1 the assurance be construed as such an admission. Violation of an  
2 assurance under this subsection is grounds for disciplinary action;

3 (15) To designate individuals authorized to sign subpoenas and  
4 statements of charges;

5 (16) To establish panels consisting of three or more members of the  
6 board to perform any duty or authority within the board's jurisdiction  
7 under this chapter;

8 (17) To review and audit the records of licensed health facilities'  
9 or services' quality assurance committee decisions in which a  
10 licensee's practice privilege or employment is terminated or  
11 restricted. Each health facility or service shall produce and make  
12 accessible to the disciplining authority the appropriate records and  
13 otherwise facilitate the review and audit. Information so gained shall  
14 not be subject to discovery or introduction into evidence in any civil  
15 action.

16 NEW SECTION. Sec. 18. The following acts or parts of acts are  
17 each repealed:

18 (1) RCW 18.135.080 and 1991 c 3 s 277 & 1984 c 281 s 8;

19 (2) RCW 18.64.260 and 1987 c 202 s 184, 1969 ex.s. c 199 s 17, 1909  
20 c 213 s 9, & 1899 c 121 s 17; and

21 (3) RCW 18.71A.070 and 1990 c 196 s 7, 1979 c 158 s 58, & 1975 1st  
22 ex.s. c 190 s 3.

--- END ---