

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2271**

Chapter 17, Laws of 1994

53rd Legislature  
1994 Regular Session

FUNERAL DIRECTORS AND EMBALMERS--DISCIPLINE AND  
UNFAIR BUSINESS PRACTICES

EFFECTIVE DATE: 6/9/94

Passed by the House February 8, 1994  
Yeas 93 Nays 0

BRIAN EBERSOLE

**Speaker of the  
House of Representatives**

Passed by the Senate March 2, 1994  
Yeas 40 Nays 0

R. LORRAINE WOJAHN

**President of the Senate**

Approved March 21, 1994

MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Marilyn Showalter, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2271** as passed by the House of Representatives and the Senate on the dates hereon set forth.

MARILYN SHOWALTER

**Chief Clerk**

FILED

March 21, 1994 - 11:19 a.m.

**Secretary of State  
State of Washington**

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HOUSE BILL 2271

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Passed Legislature - 1994 Regular Session

State of Washington                      53rd Legislature                      1994 Regular Session

By Representatives Springer and Chandler; by request of Department of Licensing

Read first time 01/12/94. Referred to Committee on Health Care.

1            AN ACT Relating to funeral director and embalmer disciplinary  
2 procedures; amending RCW 18.130.040; reenacting and amending RCW  
3 18.39.175; adding new sections to chapter 18.39 RCW; repealing RCW  
4 18.39.178; and prescribing penalties.

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

6            **Sec. 1.** RCW 18.39.175 and 1986 c 259 s 64 and 1985 c 402 s 6 are  
7 each reenacted and amended to read as follows:

8            Each member of the board of funeral directors and embalmers shall  
9 be compensated in accordance with RCW 43.03.240 and shall be reimbursed  
10 for travel expenses in connection with board duties in accordance with  
11 RCW 43.03.050 and 43.03.060.

12            The state board of funeral directors and embalmers shall have the  
13 following duties and responsibilities:

14            (1) To be responsible for the preparation, conducting, and grading  
15 of examinations of applicants for funeral director and embalmer  
16 licenses;

17            (2) To certify to the director the results of examinations of  
18 applicants and certify the applicant as having "passed" or "failed";

1 (3) To make findings and recommendations to the director on any and  
2 all matters relating to the enforcement of this chapter;

3 (4) To adopt, promulgate, and enforce reasonable rules. Rules  
4 regulating the cremation of human remains and establishing fees and  
5 permit requirements shall be adopted in consultation with the cemetery  
6 board; ((and))

7 (5) To examine or audit or to direct the examination and audit of  
8 prearrangement funeral service trust fund records for compliance with  
9 this chapter and rules adopted by the board((-)); and

10 (6) ~~((To conduct disciplinary proceedings under chapter 18.130 RCW  
11 if the licensee has violated that chapter or has committed  
12 unprofessional conduct, which includes:~~

13 ~~(a) Solicitation of human dead bodies by the licensee, his agents,  
14 assistants or employees, whether the solicitation occurs after death or  
15 while death is impending. This chapter does not prohibit general  
16 advertising or the sale of pre-need funeral plans;~~

17 ~~(b) Employment by the licensee of persons known as "cappers,"  
18 "steerers," or "solicitors" or other persons to obtain funeral  
19 directing or embalming business;~~

20 ~~(c) Employment directly or indirectly of any person for the purpose  
21 of calling upon individuals or institutions by whose influence dead  
22 human bodies may be turned over to a particular funeral director or  
23 embalmer;~~

24 ~~(d) The buying of business by the licensee, his agents, assistants  
25 or employees, or the direct or indirect payment or offer of payment of  
26 a commission by the licensee, his agents, assistants, or employees, for  
27 the purpose of securing business;~~

28 ~~(e) Solicitation or acceptance by a licensee of any commission or  
29 bonus or rebate in consideration of recommending or causing a dead  
30 human body to be disposed of in any crematory, mausoleum, or cemetery;~~

31 ~~(f) Using any casket or part of a casket which has previously been  
32 used as a receptacle for, or in connection with, the burial or other  
33 disposition of a dead human body without the written consent of next of  
34 kin;~~

35 ~~(g) Violation of any state law or municipal or county ordinance or  
36 regulation affecting the handling, custody, care, or transportation of  
37 dead human bodies;~~

38 ~~(h) Refusing to promptly surrender the custody of a dead human body  
39 upon the express order of the person lawfully entitled to its custody;~~

1       ~~(i) Selling, or offering for sale, a share, certificate, or an~~  
2 ~~interest in the business of any funeral director or embalmer, or in any~~  
3 ~~corporation, firm, or association owning or operating a funeral~~  
4 ~~establishment, which promises or purports to give to purchasers a right~~  
5 ~~to the services of the funeral director, embalmer, or corporation,~~  
6 ~~firm, or association at a charge or cost less than that offered or~~  
7 ~~given to the public; or~~

8       ~~(j) Knowingly concealing information concerning a violation of this~~  
9 ~~chapter;~~

10       ~~(7))~~) To adopt rules establishing mandatory continuing education  
11 requirements to be met by persons applying for license renewal.

12       NEW SECTION.   **Sec. 2.** In addition to the authority specified in  
13 this chapter, the board has the following additional authority  
14 concerning disciplinary hearings:

15       (1) To issue subpoenas and administer oaths in connection with any  
16 investigation, hearing, or proceeding held under this chapter;

17       (2) To take or cause to be taken depositions and use other  
18 discovery procedures as needed in any investigation, hearing, or  
19 proceeding held under this chapter;

20       (3) To compel attendance of witnesses at hearings;

21       (4) To take emergency action ordering summary suspension of a  
22 license, registration, endorsement, or permit, or restriction or  
23 limitation of the licensee's, registrant's, or endorsement or permit  
24 holder's practice pending proceedings by the board;

25       (5) To use the office of administrative hearings as authorized in  
26 chapter 34.12 RCW to conduct hearings. However, the board shall make  
27 the final decision regarding disposition of the license, registration,  
28 endorsement, or permit;

29       (6) To use individual members of the board to direct  
30 investigations. However, a member of the board used to direct an  
31 investigation may not subsequently participate in the hearing of the  
32 case;

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

35       (8) To contract with licensees, registrants, or endorsement or  
36 permit holders, or other persons or organizations to provide services  
37 necessary for the monitoring and supervision of licensees, registrants,  
38 or endorsement or permit holders who are placed on probation, whose

1 professional activities are restricted, or who are for an authorized  
2 purpose subject to monitoring by the board;

3 (9) To adopt rules for standards of professional conduct or  
4 practice;

5 (10) To grant or deny license, registration, endorsement, or permit  
6 applications, and in the event of a finding of unprofessional conduct  
7 by an applicant or license, registration, endorsement, or permit  
8 holder, to impose a sanction against a license, registration,  
9 endorsement, or permit applicant or license, registration, endorsement,  
10 or permit holder provided by this chapter;

11 (11) To enter into an assurance of discontinuance in lieu of  
12 issuing a statement of charges or conducting a hearing. The assurance  
13 must consist of a statement of the law in question and an agreement to  
14 not violate the stated provision. The applicant or license,  
15 registration, endorsement, or permit holder may not be required to  
16 admit to a violation of the law, nor is the assurance such an  
17 admission. Violation of an assurance under this section is grounds for  
18 disciplinary action;

19 (12) To designate individuals authorized to sign subpoenas and  
20 statements of charges; and

21 (13) To revoke, suspend, or take other action provided for by  
22 section 12 of this act against licenses, registrations, endorsements,  
23 or permits issued under this chapter.

24 NEW SECTION. **Sec. 3.** The following shall constitute  
25 unprofessional conduct:

26 (1) Solicitation of dead human bodies by a licensee, registrant,  
27 endorsement, or permit holder, or agent, assistant, or employee of the  
28 licensee, registrant, endorsement, or permit holder whether the  
29 solicitation occurs after death or while death is impending. This  
30 chapter does not prohibit general advertising or the sale of  
31 prearrangement funeral service contracts;

32 (2) Solicitation may include employment of solicitors, payment of  
33 commission, bonus, rebate, or any form of gratuity or payment of a  
34 finders fee, referral fee, or other consideration given for the purpose  
35 of obtaining or providing the services for a dead human body or where  
36 death is impending;

37 (3) Acceptance by a licensee, registrant, endorsement, or permit  
38 holder or other employee of a funeral establishment of a commission,

1 bonus, rebate, or gratuity in consideration of directing business to a  
2 cemetery, crematory, mausoleum, columbarium, florist, or other person  
3 providing goods and services to the disposition of dead human bodies;

4 (4) Using a casket or part of a casket that has previously been  
5 used as a receptacle for, or in connection with, the burial or other  
6 disposition of a dead human body without the written consent of the  
7 person lawfully entitled to control the disposition of remains of the  
8 deceased person in accordance with RCW 68.50.160. This subsection does  
9 not prohibit the use of rental caskets, such as caskets of which the  
10 outer shell portion is rented and the inner insert that contains the  
11 dead human body is purchased and used for the disposition, that are  
12 disclosed as such in the statement of funeral goods and services;

13 (5) Violation of a state law, municipal law, or county ordinance or  
14 regulation affecting the handling, custody, care, transportation, or  
15 disposition of dead human bodies;

16 (6) Refusing to promptly surrender the custody of a dead human body  
17 upon the expressed order of the person lawfully entitled to its custody  
18 under RCW 68.50.160;

19 (7) Selling, or offering for sale, a share, certificate, or an  
20 interest in the business of a funeral establishment, or in a  
21 corporation, firm, or association owning or operating a funeral  
22 establishment that promises or purports to give to purchasers a right  
23 to the services of a licensee, registrant, endorsement, or permit  
24 holder at a charge or cost less than offered or given to the public;

25 (8) The commission of an act involving moral turpitude, dishonesty,  
26 or corruption relating to the practice of the funeral profession  
27 whether or not the act constitutes a crime. If the act constitutes a  
28 crime, conviction in a criminal proceeding is not a condition precedent  
29 to disciplinary action. Upon such a conviction, however, the judgment  
30 and sentence is conclusive evidence at the ensuing disciplinary hearing  
31 of the guilt of the license, registration, endorsement, or permit  
32 holder, or applicant of the crime described in the indictment or  
33 information and of the person's violation of the statute on which it is  
34 based. For the purpose of this section, conviction includes all  
35 instances in which a plea of guilty or nolo contendere is the basis for  
36 the conviction in all proceedings in which the sentence has been  
37 deferred or suspended. This section does not abrogate rights  
38 guaranteed under chapter 9.96A RCW;

1 (9) Misrepresentation or concealment of a material fact in  
2 obtaining a license, registration, endorsement, or permit or in  
3 reinstatement thereof;

4 (10) All advertising that is false, fraudulent, or misleading;

5 (11) Suspension or revocation or restriction of the individual's  
6 license, registration, endorsement, or permit to practice the  
7 profession by competent authority in any state, federal, or foreign  
8 jurisdiction, a certified copy of the order, stipulation, or agreement  
9 being conclusive evidence of the revocation, suspension, or  
10 restriction;

11 (12) Violation of any state or federal statute or administrative  
12 ruling relating to funeral practice;

13 (13) Failure to cooperate with the board by:

14 (a) Not furnishing any papers or documents;

15 (b) Not furnishing in writing a full and complete explanation  
16 covering the matters contained in a complaint filed with the board; or

17 (c) Not responding to subpoenas issued by the board whether or not  
18 the recipient of the subpoena is the accused in the proceeding;

19 (14) Failure to comply with an order issued by the board or an  
20 assurance of discontinuance entered into with the board;

21 (15) Aiding or abetting an unlicensed or unregistered person to  
22 practice where a license, registration, endorsement, or permit is  
23 required;

24 (16) Misrepresentation or fraud in any aspect of the conduct of  
25 funeral practice;

26 (17) Conviction of a gross misdemeanor or felony relating to this  
27 title. For the purpose of this subsection, conviction includes all  
28 instances in which a plea of guilty or nolo contendere is the basis for  
29 conviction and all proceedings in which the sentence has been deferred  
30 or suspended. This section does not abrogate rights guaranteed under  
31 chapter 9.96A RCW;

32 (18) Interference with an investigation or disciplinary proceeding  
33 by willful misrepresentation of facts before the board or its  
34 authorized representative or the inspector, or by the use of threats or  
35 harassment against a witness to prevent that witness from providing  
36 evidence in a disciplinary hearing or other legal action;

37 (19) Diminished capacity or habitual intemperance in the use of  
38 alcohol, controlled substances, or prescribed drugs that impairs,

1 interferes, or otherwise prevents the proper performance of licensed,  
2 registered, endorsed, or permitted duties or functions;

3 (20) Knowingly concealing information concerning a violation of  
4 this title;

5 (21) Incompetence or negligence as a licensee, registrant,  
6 endorsement, or permit holder in carrying out the duties of the  
7 profession.

8 NEW SECTION. **Sec. 4.** A person, including but not limited to a  
9 consumer, licensee, corporation, organization, and state and local  
10 governmental agency, may submit a written complaint to the board  
11 charging a license, registration, endorsement, or permit holder or  
12 applicant with unprofessional conduct and specifying the grounds for  
13 the complaint. If the board determines that the complaint merits  
14 investigation, or if the board has reason to believe, without a formal  
15 complaint, that a license holder or applicant might have engaged in  
16 unprofessional conduct, the board shall investigate to determine  
17 whether there has been unprofessional conduct. A person who files a  
18 complaint under this section in good faith is immune from suit in a  
19 civil action related to the filing or contents of the complaint.

20 NEW SECTION. **Sec. 5.** (1) If the board determines, upon  
21 investigation, that there is reason to believe a violation of this  
22 chapter has occurred, a statement of charge or charges should be  
23 prepared and served upon the license, registration, endorsement, or  
24 permit holder or applicant at the earliest practical time. The  
25 statement of charge or charges must be accompanied by a notice that the  
26 license, registration, endorsement, or permit holder or applicant may  
27 request a hearing to contest the charge or charges. The license,  
28 registration, endorsement, or permit holder or applicant must file a  
29 request for hearing with the board within twenty days after being  
30 served the statement of charges. The failure to request a hearing  
31 constitutes a default, upon which the board may enter a decision on the  
32 basis of the facts available to it.

33 (2) If a hearing is requested, the board shall fix the time of the  
34 hearing as soon as convenient, but the hearing must not be held earlier  
35 than thirty days after service of the charges upon the license,  
36 registration, endorsement, or permit holder or applicant. A notice of  
37 hearing must be issued at least twenty days before the hearing,



1 specifying the time, date, and place of the hearing. The notice must  
2 also notify the license, registration, endorsement, or permit holder or  
3 applicant that a record of the proceeding will be kept, that the holder  
4 or applicant will have the opportunity to appear personally and to have  
5 counsel present, with the right to produce witnesses who will be  
6 subject to cross-examination, and evidence in the holder's or  
7 applicant's own behalf, to cross-examine witnesses testifying against  
8 the holder or applicant, to examine such documentary evidence as may be  
9 produced against the holder or applicant, to conduct depositions, and  
10 to have subpoenas issued by the board.

11 NEW SECTION. **Sec. 6.** The procedures governing adjudicative  
12 proceedings before agencies under chapter 34.05 RCW, the administrative  
13 procedure act, govern all hearings before the board. The board has, in  
14 addition to the powers and duties set forth in this chapter, all of the  
15 powers and duties under chapter 34.05 RCW, that include, without  
16 limitation, all powers relating to the administration of oaths, the  
17 receipt of evidence, the issuance and enforcing of subpoenas, and the  
18 taking of depositions.

19 NEW SECTION. **Sec. 7.** (1) In the event of a finding of  
20 unprofessional conduct, the board shall prepare and serve findings of  
21 fact and an order as provided in chapter 34.05 RCW and the board shall  
22 notify the public, which notice must include press releases to  
23 appropriate local news media and the major news wire services. If the  
24 license, registration, endorsement, or permit holder or applicant is  
25 found to have not committed unprofessional conduct, the board shall  
26 immediately prepare and serve findings of fact and an order of  
27 dismissal of the charges. The board shall retain the findings of fact  
28 and order as a permanent record.

29 (2) The board shall report the issuance of statements of charges  
30 and final orders in cases processed by the board to:

31 (a) The person or agency who brought to the board's attention  
32 information that resulted in the initiation of the case;

33 (b) Appropriate organizations, public or private, that serve the  
34 professions; and

35 (c) Counterpart licensing boards in other states or associations of  
36 state licensing boards.

1 (3) This section does not require the reporting of information that  
2 is exempt from public disclosure under chapter 42.17 RCW.

3 NEW SECTION. **Sec. 8.** The department shall not issue a license,  
4 registration, endorsement, or permit to a person whose license,  
5 registration, endorsement, or permit has been denied, revoked, or  
6 suspended by the board except in conformity with the terms and  
7 conditions of the certificate or order of denial, revocation, or  
8 suspension; or in conformity with an order of reinstatement issued by  
9 the board; or in accordance with the final judgment in a proceeding for  
10 review instituted under this chapter.

11 NEW SECTION. **Sec. 9.** An order under proceedings authorized under  
12 this chapter, after due notice and findings in accordance with this  
13 chapter and chapter 34.05 RCW, or an order of summary suspension  
14 entered under this chapter, takes effect immediately upon its being  
15 served. The order, if appealed to the court, may not be stayed pending  
16 the appeal unless the board or court to which the appeal is taken  
17 enters an order staying the order of the board, which stay must provide  
18 for terms necessary to protect the public.

19 NEW SECTION. **Sec. 10.** An individual who has been disciplined or  
20 whose license, registration, endorsement, or permit has been denied by  
21 the board may appeal the decision as provided in chapter 34.05 RCW.

22 NEW SECTION. **Sec. 11.** A person whose license, registration,  
23 endorsement, or permit has been suspended or revoked under this chapter  
24 may petition the board for reinstatement after an interval as  
25 determined by the board in the order. The board shall hold hearings on  
26 the petition and may deny the petition or may order reinstatement,  
27 impose terms and conditions as provided in section 12 of this act, and  
28 issue an order of reinstatement. The board may require successful  
29 completion of an examination as a condition of reinstatement.

30 NEW SECTION. **Sec. 12.** Upon a finding that a license holder or  
31 applicant has committed unprofessional conduct, the board may issue an  
32 order providing for one or any combination of the following:

33 (1) Revocation of the license, registration, endorsement, or  
34 permit;

- 1 (2) Suspension of the license, registration, endorsement, or permit  
2 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 superior approved by the  
7 board;
- 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 thousand dollars per violation, that is to be paid to the  
13 board's fund;
- 14 (9) Denial of the license, registration, endorsement, or permit  
15 request; and
- 16 (10) Corrective action.

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

26 The licensee, registrant, endorsement or permit holder, or  
27 applicant may enter into a stipulated disposition of charges that  
28 includes one or more of the sanctions of this section, but only after  
29 a statement of charges has been issued and the licensee, registrant,  
30 endorsement or permit holder, or applicant has been afforded the  
31 opportunity for a hearing and has elected on the record to forego such  
32 a hearing. The stipulation shall either contain one or more specific  
33 findings of unprofessional conduct or inability to practice, or a  
34 statement by the licensee, registrant, endorsement or permit holder, or  
35 applicant acknowledging that evidence is sufficient to justify one or  
36 more specified findings of unprofessional conduct or inability to  
37 practice. The stipulation entered into pursuant to this subsection  
38 shall be considered formal disciplinary action for all purposes.

1        NEW SECTION.     **Sec. 13.**     (1) Prior to serving a statement of  
2 charges, the board may furnish a statement of allegations to the  
3 licensee, registrant, endorsement or permit holder, or applicant along  
4 with a detailed summary of the evidence relied upon to establish the  
5 allegations and a proposed stipulation for informal resolution of the  
6 allegations. These documents shall be exempt from public disclosure  
7 until such time as the allegations are resolved either by stipulation  
8 or otherwise.

9        (2) The board and the licensee, registrant, endorsement or permit  
10 holder, or applicant may stipulate that the allegations may be disposed  
11 of informally in accordance with this subsection. The stipulation  
12 shall contain a statement of the facts leading to the filing of the  
13 complaint; the act or acts of unprofessional conduct alleged to have  
14 been committed or the alleged basis for determining that the licensee,  
15 registrant, endorsement or permit holder, or applicant is unable to  
16 practice with reasonable skill and safety; a statement that the  
17 stipulation is not to be construed as a finding of either  
18 unprofessional conduct or inability to practice; an acknowledgement  
19 that a finding of unprofessional conduct or inability to practice, if  
20 proven, constitutes grounds for discipline under this chapter; an  
21 agreement on the part of the licensee, registrant, endorsement or  
22 permit holder, or applicant that the sanctions set forth in this  
23 chapter, except for revocation, suspension, censure, or reprimand of a  
24 licensee, registrant, endorsement of permit holder, or applicant may be  
25 imposed as part of the stipulation, except that no fine may be imposed  
26 but the licensee, registrant, endorsement or permit holder, or  
27 applicant may agree to reimburse the board the costs of investigation  
28 and processing the complaint up to an amount not exceeding one thousand  
29 dollars per allegation; and an agreement on the part of the board to  
30 forego further disciplinary proceedings concerning the allegations. A  
31 stipulation entered into pursuant to this subsection shall not be  
32 considered formal disciplinary action.

33        (3) If the licensee, registrant, endorsement or permit holder, or  
34 applicant declines to agree to disposition of the charges by means of  
35 a stipulation pursuant to subsection (2) of this section, the board may  
36 proceed to formal disciplinary action pursuant to this chapter.

37        (4) Upon execution of a stipulation under subsection (2) of this  
38 section by both the licensee, registrant, endorsement or permit holder,  
39 or applicant and the board, the complaint is deemed disposed of and

1 shall become subject to public disclosure on the same basis and to the  
2 same extent as other records of the board. Should the licensee,  
3 registrant, endorsement or permit holder, or applicant fail to pay any  
4 agreed reimbursement within thirty days of the date specified in the  
5 stipulation for payment, the board may seek collection of the amount  
6 agreed to be paid in the same manner as enforcement of a fine under  
7 this chapter.

8 NEW SECTION. **Sec. 14.** If an order for payment of a fine is made  
9 as a result of an order entered under this chapter and timely payment  
10 is not made as directed in the final order, the board may enforce the  
11 order for payment in the superior court in the county in which the  
12 hearing was held. This right of enforcement is in addition to other  
13 rights the board may have as to a licensee, registrant, endorsement, or  
14 permit holder ordered to pay a fine but does not limit a licensee's,  
15 registrant's, or endorsement or permit holder's ability to seek  
16 judicial review under this chapter. In an action for enforcement of an  
17 order of payment of a fine, the board's order is conclusive proof of  
18 the validity of the order of payment of a fine and the terms of  
19 payment.

20 NEW SECTION. **Sec. 15.** (1) The director shall investigate a  
21 complaint concerning practice by an unlicensed person for which a  
22 license, registration, endorsement, or permit is required under this  
23 chapter. The director shall issue a cease and desist order to a person  
24 after notice and hearing and upon a determination that the person has  
25 violated this subsection. If the director makes a written finding of  
26 fact that the public interest will be irreparably harmed by delay in  
27 issuing an order, the director may issue a temporary cease and desist  
28 order. The cease and desist order does not relieve the person  
29 practicing or operating a business without a license, registration,  
30 permit, or registration from criminal prosecution for the unauthorized  
31 practice or operation, but the remedy of a cease and desist order is in  
32 addition to criminal liability. The cease and desist order is  
33 conclusive proof of unlicensed practice and may be enforced by civil  
34 contempt. This method of enforcement of the cease and desist order may  
35 be used in addition to, or as an alternative to, provisions for  
36 enforcement or agency orders under chapter 34.05 RCW.

1 (2) The attorney general, a county prosecuting attorney, the  
2 director, the board, or a person may, in accordance with the laws of  
3 this state governing injunctions, maintain an action in the name of  
4 this state to enjoin a person practicing a profession or business for  
5 which a license, registration, endorsement, or permit is required under  
6 this chapter without a license, registration, endorsement, or permit  
7 from engaging in the practice or operation of the business until the  
8 required license, registration, endorsement, or permit is secured.  
9 However, the injunction does not relieve the person so practicing or  
10 operating a business without a license, registration, endorsement, or  
11 permit from criminal prosecution for the unauthorized practice or  
12 operation, but the remedy by injunction is in addition to criminal  
13 liability.

14 (3) Unlicensed practice of a profession or operation of a business  
15 for which a license, registration, endorsement, or permit is required  
16 under this chapter, unless otherwise exempted by law, is a gross  
17 misdemeanor. Fees, fines, forfeitures, and penalties collected or  
18 assessed by a court because of a violation of this section must be  
19 remitted to the board.

20 NEW SECTION. **Sec. 16.** A person or business that violates an  
21 injunction issued under this chapter shall pay a civil penalty, as  
22 determined by the court, of not more than twenty-five thousand dollars  
23 that must be placed in the board account. For the purpose of this  
24 section, the superior court issuing an injunction shall retain  
25 jurisdiction and the cause must be continued, and the attorney general  
26 acting in the name of the state may petition for the recovery of civil  
27 penalties.

28 NEW SECTION. **Sec. 17.** If the board determines or has cause to  
29 believe that a license, registration, endorsement, or permit holder has  
30 committed a crime, the board, immediately subsequent to issuing  
31 findings of fact and a final order, shall notify the attorney general  
32 or the county prosecuting attorney in the county in which the act took  
33 place of the facts known to the board.

34 NEW SECTION. **Sec. 18.** Sections 2 through 17 of this act are each  
35 added to chapter 18.39 RCW.

1       **Sec. 19.** RCW 18.130.040 and 1993 c 367 s 4 are each amended to  
2 read as follows:

3       (1) This chapter applies only to the secretary and the boards  
4 having jurisdiction in relation to the professions licensed under the  
5 chapters specified in this section. This chapter does not apply to any  
6 business or profession not licensed under the chapters specified in  
7 this section.

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

- 10       (i) Dispensing opticians licensed under chapter 18.34 RCW;
- 11       (ii) Naturopaths licensed under chapter 18.36A RCW;
- 12       (iii) Midwives licensed under chapter 18.50 RCW;
- 13       (iv) Ocularists licensed under chapter 18.55 RCW;
- 14       (v) Massage operators and businesses licensed under chapter 18.108  
15 RCW;
- 16       (vi) Dental hygienists licensed under chapter 18.29 RCW;
- 17       (vii) Acupuncturists certified under chapter 18.06 RCW;
- 18       (viii) Radiologic technologists certified under chapter 18.84 RCW;
- 19       (ix) Respiratory care practitioners certified under chapter 18.89  
20 RCW;
- 21       (x) Persons registered or certified under chapter 18.19 RCW;
- 22       (xi) Persons registered as nursing pool operators;
- 23       (xii) Nursing assistants registered or certified under chapter  
24 18.88A RCW;
- 25       (xiii) Health care assistants certified under chapter 18.135 RCW;
- 26       (xiv) Dietitians and nutritionists certified under chapter 18.138  
27 RCW;
- 28       (xv) Sex offender treatment providers certified under chapter  
29 18.155 RCW; and
- 30       (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW  
31 18.71.205.

32       (b) The boards having authority under this chapter are as follows:

- 33       (i) The podiatric medical board as established in chapter 18.22  
34 RCW;
- 35       (ii) The chiropractic disciplinary board as established in chapter  
36 18.26 RCW governing licenses issued under chapter 18.25 RCW;
- 37       (iii) The dental disciplinary board as established in chapter 18.32  
38 RCW;

1 (iv) The council on hearing aids as established in chapter 18.35  
2 RCW;

3 (~~(v)~~) (~~The board of funeral directors and embalmers as established~~  
4 ~~in chapter 18.39~~ RCW;

5 (~~(vi)~~) The board of examiners for nursing home administrators as  
6 established in chapter 18.52 RCW;

7 (~~(vii)~~) ((vi)) The optometry board as established in chapter 18.54  
8 RCW governing licenses issued under chapter 18.53 RCW;

9 (~~(viii)~~) ((vii)) The board of osteopathic medicine and surgery as  
10 established in chapter 18.57 RCW governing licenses issued under  
11 chapters 18.57 and 18.57A RCW;

12 (~~(ix)~~) ((viii)) The board of pharmacy as established in chapter  
13 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A  
14 RCW;

15 (~~(x)~~) ((ix)) The medical disciplinary board as established in  
16 chapter 18.72 RCW governing licenses and registrations issued under  
17 chapters 18.71 and 18.71A RCW;

18 (~~(xi)~~) ((x)) The board of physical therapy as established in  
19 chapter 18.74 RCW;

20 (~~(xii)~~) ((xi)) The board of occupational therapy practice as  
21 established in chapter 18.59 RCW;

22 (~~(xiii)~~) ((xii)) The board of practical nursing as established in  
23 chapter 18.78 RCW;

24 (~~(xiv)~~) ((xiii)) The examining board of psychology and its  
25 disciplinary committee as established in chapter 18.83 RCW;

26 (~~(xv)~~) ((xiv)) The board of nursing as established in chapter 18.88  
27 RCW; and

28 (~~(xvi)~~) ((xv)) The veterinary board of governors as established in  
29 chapter 18.92 RCW.

30 (3) In addition to the authority to discipline license holders, the  
31 disciplining authority has the authority to grant or deny licenses  
32 based on the conditions and criteria established in this chapter and  
33 the chapters specified in subsection (2) of this section. However, the  
34 board of chiropractic examiners has authority over issuance and denial  
35 of licenses provided for in chapter 18.25 RCW, the board of dental  
36 examiners has authority over issuance and denial of licenses provided  
37 for in RCW 18.32.040, and the board of medical examiners has authority  
38 over issuance and denial of licenses and registrations provided for in  
39 chapters 18.71 and 18.71A RCW. This chapter also governs any



1 investigation, hearing, or proceeding relating to denial of licensure  
2 or issuance of a license conditioned on the applicant's compliance with  
3 an order entered pursuant to RCW 18.130.160 by the disciplining  
4 authority.

5 NEW SECTION. **Sec. 20.** RCW 18.39.178 and 1987 c 150 s 29 & 1986 c  
6 259 s 59 are each repealed.

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