

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5877

Chapter 251, Laws of 2001

57th Legislature
2001 Regular Session

MENTAL HEALTH COUNSELORS, MARRIAGE AND FAMILY THERAPISTS, SOCIAL
WORKERS--LICENSING

EFFECTIVE DATE: 7/22/01

Passed by the Senate April 17, 2001
YEAS 33 NAYS 15

BRAD OWEN
President of the Senate

Passed by the House April 6, 2001
YEAS 93 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 11, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5877** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 11, 2001 - 9:21 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5877

AS AMENDED BY THE HOUSE

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Winsley, Costa and Kohl-Welles)

READ FIRST TIME 03/05/01.

1 AN ACT Relating to licensed mental health counselors, marriage and
2 family therapists, and social workers; amending RCW 18.19.010,
3 18.19.020, 18.19.030, 18.19.040, 18.19.050, 18.19.060, 18.19.080,
4 18.19.180, 18.19.190, 18.120.020, 18.130.040, 18.100.050, 18.205.090,
5 25.05.510, 25.15.045, and 48.43.087; reenacting and amending RCW
6 9A.44.010; adding a new section to chapter 70.02 RCW; adding a new
7 chapter to Title 18 RCW; and repealing RCW 18.19.070, 18.19.110,
8 18.19.120, 18.19.130, 18.19.140, 18.19.150, 18.19.160, and 18.19.170.

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

10 NEW SECTION. **Sec. 1.** Unless the context clearly requires
11 otherwise, the definitions in this section apply throughout this
12 chapter.

13 (1) "Advanced social work" means the application of social work
14 theory and methods including emotional and biopsychosocial assessment,
15 psychotherapy under the supervision of a licensed independent clinical
16 social worker, case management, consultation, advocacy, counseling, and
17 community organization.

18 (2) "Applicant" means a person who completes the required
19 application, pays the required fee, is at least eighteen years of age,

1 and meets any background check requirements and uniform disciplinary
2 act requirements.

3 (3) "Committee" means the Washington state mental health
4 counselors, marriage and family therapists, and social workers advisory
5 committee.

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

7 (5) "Disciplining authority" means the department.

8 (6) "Independent clinical social work" means the diagnosis and
9 treatment of emotional and mental disorders based on knowledge of human
10 development, the causation and treatment of psychopathology,
11 psychotherapeutic treatment practices, and social work practice as
12 defined in advanced social work. Treatment modalities include but are
13 not limited to diagnosis and treatment of individuals, couples,
14 families, groups, or organizations.

15 (7) "Marriage and family therapy" means the diagnosis and treatment
16 of mental and emotional disorders, whether cognitive, affective, or
17 behavioral, within the context of relationships, including marriage and
18 family systems. Marriage and family therapy involves the professional
19 application of psychotherapeutic and family systems theories and
20 techniques in the delivery of services to individuals, couples, and
21 families for the purpose of treating such diagnosed nervous and mental
22 disorders. The practice of marriage and family therapy means the
23 rendering of professional marriage and family therapy services to
24 individuals, couples, and families, singly or in groups, whether such
25 services are offered directly to the general public or through
26 organizations, either public or private, for a fee, monetary or
27 otherwise.

28 (8) "Mental health counseling" means the application of principles
29 of human development, learning theory, psychotherapy, group dynamics,
30 and etiology of mental illness and dysfunctional behavior to
31 individuals, couples, families, groups, and organizations, for the
32 purpose of treatment of mental disorders and promoting optimal mental
33 health and functionality. Mental health counseling also includes, but
34 is not limited to, the assessment, diagnosis, and treatment of mental
35 and emotional disorders, as well as the application of a wellness model
36 of mental health.

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

1 NEW SECTION. **Sec. 2.** A person must not represent himself or
2 herself as a licensed advanced social worker, licensed independent
3 clinical social worker, licensed mental health counselor, or licensed
4 marriage and family therapist, without being licensed by the
5 department.

6 NEW SECTION. **Sec. 3.** Nothing in this chapter shall be construed
7 to prohibit or restrict:

8 (1) The practice of marriage and family therapy, mental health
9 counseling, or social work by an individual otherwise regulated under
10 this title and performing services within the authorized scope of
11 practice;

12 (2) The practice of marriage and family therapy, mental health
13 counseling, or social work by an individual employed by the government
14 of the United States or state of Washington while engaged in the
15 performance of duties prescribed by the laws of the United States or
16 state of Washington;

17 (3) The practice of marriage and family therapy, mental health
18 counseling, or social work by a person who is a regular student in an
19 educational program based on recognized national standards and approved
20 by the secretary, and whose performance of services is pursuant to a
21 regular course of instruction or assignments from an instructor and
22 under the general supervision of the instructor;

23 (4) The practice of marriage and family therapy, mental health
24 counseling, or social work under the auspices of a religious
25 denomination, church, or religious organization.

26 NEW SECTION. **Sec. 4.** In addition to any other authority provided
27 by law, the secretary has the authority to:

28 (1) Adopt rules under chapter 34.05 RCW necessary to implement this
29 chapter. Any rules adopted shall be in consultation with the
30 committee;

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

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

35 (4) Issue licenses to applicants who have met the education,
36 training, and examination requirements for licensure and to deny a
37 license to applicants who do not meet the requirements;

1 (5) Hire clerical, administrative, investigative, and other staff
2 as needed to implement this chapter, and hire individuals licensed
3 under this chapter to serve as examiners for any practical
4 examinations;

5 (6) Administer and supervise the grading and taking of examinations
6 for applicants for licensure;

7 (7) Determine which states have credentialing requirements
8 substantially equivalent to those of this state, and issue licenses to
9 individuals credentialed in those states without examinations;

10 (8) Implement and administer a program for consumer education in
11 consultation with the committee;

12 (9) Adopt rules implementing a continuing education program in
13 consultation with the committee;

14 (10) Maintain the official record of all applicants and licensees;
15 and

16 (11) Establish by rule the procedures for an appeal of an
17 examination failure.

18 NEW SECTION. **Sec. 5.** The secretary shall keep an official record
19 of all proceedings. A part of the record shall consist of a register
20 of all applicants for licensing under this chapter and the results of
21 each application.

22 NEW SECTION. **Sec. 6.** The Washington state mental health
23 counselors, marriage and family therapists, and social workers advisory
24 committee is established.

25 (1) The committee shall be comprised of nine members. Two members
26 shall be licensed mental health counselors. Two members shall be
27 licensed marriage and family therapists. One member shall be a
28 licensed independent clinical social worker, and one member shall be a
29 licensed advanced social worker. Three members must be consumers and
30 represent the public at large and may not be licensed mental health
31 care providers.

32 (2) Three members shall be appointed for a term of one year, three
33 members shall be appointed for a term of two years, and three members
34 shall be appointed for a term of three years. Subsequent members shall
35 be appointed for terms of three years. A person must not serve as a
36 member for more than two consecutive terms.

37 (3)(a) Each member must be a resident of the state of Washington.

1 (b) Each member must not hold an office in a professional
2 association for mental health, social work, or marriage and family
3 therapy and must not be employed by the state of Washington.

4 (c) Each professional member must have been actively engaged as a
5 mental health counselor, marriage and family therapist, or social
6 worker for five years immediately preceding appointment.

7 (d) The consumer members must represent the general public and be
8 unaffiliated directly or indirectly with the professions licensed under
9 this chapter.

10 (4) The secretary shall appoint the committee members.

11 (5) Committee members are immune from suit in an action, civil or
12 criminal, based on the department's disciplinary proceedings or other
13 official acts performed in good faith.

14 (6) Committee members shall be compensated in accordance with RCW
15 43.03.240, including travel expenses in carrying out his or her
16 authorized duties in accordance with RCW 43.03.050 and 43.03.060.

17 (7) The committee shall elect a chair and vice-chair.

18 NEW SECTION. **Sec. 7.** The department of health may seek the advice
19 and assistance of the advisory committee in administering this chapter,
20 including, but not limited to:

21 (1) Advice and recommendations regarding the establishment or
22 implementation of rules related to the administration of this chapter;

23 (2) Advice, recommendations, and consultation regarding case
24 disposition guidelines and priorities related to unprofessional conduct
25 cases regarding licensed mental health counselors, licensed clinical
26 social workers, licensed advanced social workers, and licensed marriage
27 and family therapists;

28 (3) Assistance and consultation of individual committee members as
29 needed in the review, analysis, and disposition of reports of
30 unprofessional conduct and consumer complaints;

31 (4) Assistance and recommendations to enhance consumer education;
32 and

33 (5) Assistance and recommendations regarding any continuing
34 education and continuing competency programs administered under the
35 provisions of the chapter.

36 NEW SECTION. **Sec. 8.** The uniform disciplinary act, chapter 18.130
37 RCW, governs unlicensed practice, the issuance and denial of licensure,

1 and the discipline of persons licensed under this chapter. The
2 secretary shall be the disciplinary authority under this chapter.

3 NEW SECTION. **Sec. 9.** (1) The secretary shall issue a license to
4 any applicant who demonstrates to the satisfaction of the secretary
5 that the applicant meets the following education and experience
6 requirements for the applicant's practice area.

7 (a) Licensed social work classifications:

8 (i) Licensed advanced social worker:

9 (A) Graduation from a master's or doctorate social work educational
10 program accredited by the council on social work education and approved
11 by the secretary based upon nationally recognized standards;

12 (B) Successful completion of an approved examination;

13 (C) Successful completion of a supervised experience requirement.
14 The experience requirement consists of a minimum of three thousand two
15 hundred hours with ninety hours of supervision by a licensed
16 independent clinical social worker or a licensed advanced social worker
17 who has been licensed or certified for at least two years. Of those
18 hours, fifty hours must include direct supervision by a licensed
19 advanced social worker or licensed independent clinical social worker;
20 the other forty hours may be with an equally qualified licensed mental
21 health practitioner. Forty hours must be in one-to-one supervision and
22 fifty hours may be in one-to-one supervision or group supervision.
23 Distance supervision is limited to forty supervision hours. Eight
24 hundred hours must be in direct client contact; and

25 (D) Successful completion of continuing education requirements of
26 thirty-six hours, with six in professional ethics.

27 (ii) Licensed independent clinical social worker:

28 (A) Graduation from a master's or doctorate level social work
29 educational program accredited by the council on social work education
30 and approved by the secretary based upon nationally recognized
31 standards;

32 (B) Successful completion of an approved examination;

33 (C) Successful completion of a supervised experience requirement.
34 The experience requirement consists of a minimum of four thousand hours
35 of experience, of which one thousand hours must be direct client
36 contact, over a three-year period supervised by a licensed independent
37 clinical social worker, with supervision of at least one hundred thirty
38 hours by a licensed mental health practitioner. Of the total

1 supervision, seventy hours must be with an independent clinical social
2 worker; the other sixty hours may be with an equally qualified licensed
3 mental health practitioner. Sixty hours must be in one-to-one
4 supervision and seventy hours may be in one-to-one supervision or group
5 supervision. Distance supervision is limited to sixty supervision
6 hours; and

7 (D) Successful completion of continuing education requirements of
8 thirty-six hours, with six in professional ethics.

9 (b) Licensed mental health counselor:

10 (i) Graduation from a master's or doctoral level educational
11 program in mental health counseling or a related discipline from a
12 college or university approved by the secretary based upon nationally
13 recognized standards;

14 (ii) Successful completion of an approved examination;

15 (iii) Successful completion of a supervised experience requirement.
16 The experience requirement consists of a minimum of thirty-six months
17 full-time counseling or three thousand hours of postgraduate mental
18 health counseling under the supervision of a qualified licensed mental
19 health counselor in an approved setting. The three thousand hours of
20 required experience includes a minimum of one hundred hours spent in
21 immediate supervision with the qualified licensed mental health
22 counselor, and includes a minimum of one thousand two hundred hours of
23 direct counseling with individuals, couples, families, or groups; and

24 (iv) Successful completion of continuing education requirements of
25 thirty-six hours, with six in professional ethics.

26 (c) Licensed marriage and family therapist:

27 (i) Graduation from a master's degree or doctoral degree
28 educational program in marriage and family therapy or graduation from
29 an educational program in an allied field equivalent to a master's
30 degree or doctoral degree in marriage and family therapy approved by
31 the secretary based upon nationally recognized standards;

32 (ii) Successful passage of an approved examination;

33 (iii) Successful completion of a supervised experience requirement.
34 The experience requirement consists of a minimum of two calendar years
35 of full-time marriage and family therapy. Of the total supervision,
36 one hundred hours must be with a licensed marriage and family therapist
37 with at least five years' clinical experience; the other one hundred
38 hours may be with an equally qualified licensed mental health
39 practitioner. Total experience requirements include:

1 (A) A minimum of three thousand hours of experience, one thousand
2 hours of which must be direct client contact; at least five hundred
3 hours must be gained in diagnosing and treating couples and families;
4 plus

5 (B) At least two hundred hours of qualified supervision with a
6 supervisor. At least one hundred of the two hundred hours must be one-
7 on-one supervision, and the remaining hours may be in one-on-one or
8 group supervision.

9 Applicants who have completed a master's program accredited by the
10 commission on accreditation for marriage and family therapy education
11 of the American association for marriage and family therapy may be
12 credited with five hundred hours of direct client contact and one
13 hundred hours of formal meetings with an approved supervisor; and

14 (iv) Successful completion of continuing education requirements of
15 thirty-six hours, with six in professional ethics.

16 (2) The department shall establish by rule what constitutes
17 adequate proof of meeting the criteria.

18 (3) In addition, applicants shall be subject to the grounds for
19 denial of a license or issuance of a conditional license under chapter
20 18.130 RCW.

21 NEW SECTION. **Sec. 10.** A person licensed under this chapter must
22 provide clients at the commencement of any program of treatment with
23 accurate disclosure information concerning the practice, in accordance
24 with rules adopted by the department, including the right of clients to
25 refuse treatment, the responsibility of clients to choose the provider
26 and treatment modality which best suits their needs, and the extent of
27 confidentiality provided by this chapter. The disclosure information
28 must also include the license holder's professional education and
29 training, the therapeutic orientation of the practice, the proposed
30 course of treatment where known, financial requirements, and such other
31 information as required by rule. The disclosure must be acknowledged
32 in writing by the client and license holder.

33 NEW SECTION. **Sec. 11.** (1) The date and location of examinations
34 shall be established by the secretary. Applicants who have been found
35 by the secretary to meet the other requirements for licensure shall be
36 scheduled for the next examination following the filing of the

1 application. The secretary shall establish by rule the examination
2 application deadline.

3 (2) The secretary or the secretary's designees shall examine each
4 applicant, by means determined most effective, on subjects appropriate
5 to the scope of practice, as applicable. Such examinations shall be
6 limited to the purpose of determining whether the applicant possesses
7 the minimum skill and knowledge necessary to practice competently.

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

13 (4) The secretary may approve an examination prepared or
14 administered by a private testing agency or association of licensing
15 agencies for use by an applicant in meeting the licensing requirements.

16 NEW SECTION. **Sec. 12.** Applications for licensing shall be
17 submitted on forms provided by the secretary. The secretary may
18 require any information and documentation which reasonably relates to
19 the need to determine whether the applicant meets the criteria for
20 licensing provided for in this chapter and chapter 18.130 RCW. Each
21 applicant shall pay a fee determined by the secretary under RCW
22 43.70.250. The fee shall accompany the application.

23 NEW SECTION. **Sec. 13.** Any person certified under chapter 18.19
24 RCW who has met the applicable experience and education requirements
25 under chapter 18.19 RCW prior to the effective date of this act is
26 eligible for a license as an advanced social worker, an independent
27 clinical social worker, a marriage and family therapist, or a mental
28 health counselor under this chapter without taking the examination.

29 NEW SECTION. **Sec. 14.** An applicant holding a credential in
30 another state may be licensed to practice in this state without
31 examination if the secretary determines that the other state's
32 credentialing standards are substantially equivalent to the licensing
33 standards in this state.

34 NEW SECTION. **Sec. 15.** The secretary shall establish by rule the
35 procedural requirements and fees for renewal of a license. Failure to

1 renew shall invalidate the license and all privileges granted by the
2 license. If a license has lapsed for a period longer than three years,
3 the person shall demonstrate competence to the satisfaction of the
4 secretary by taking continuing education courses, or meeting other
5 standards determined by the secretary.

6 NEW SECTION. **Sec. 16.** This chapter shall not be construed as
7 permitting the administration or prescription of drugs or in any way
8 infringing upon the practice of medicine and surgery as defined in
9 chapter 18.71 or 18.57 RCW, or in any way infringing upon the practice
10 of psychology as defined in chapter 18.83 RCW, or restricting the scope
11 of the practice of counseling for those registered under chapter 18.19
12 RCW, or restricting the scope of practice of persons licensed under
13 this chapter.

14 **Sec. 17.** RCW 18.19.010 and 1987 c 512 s 1 are each amended to read
15 as follows:

16 The qualifications and practices of counselors in this state are
17 virtually unknown to potential clients. Beyond the regulated practices
18 of psychiatry and psychology, there are a considerable variety of
19 disciplines, theories, and techniques employed by other counselors
20 under a number of differing titles. The legislature recognizes the
21 right of all counselors to practice their skills freely, consistent
22 with the requirements of the public health and safety, as well as the
23 right of individuals to choose which counselors best suit their needs
24 and purposes. This chapter shall not be construed to require or
25 prohibit that individual or group policies or contracts of an insurance
26 carrier, health care service contractor, or health maintenance
27 organization provide benefits or coverage for services and supplies
28 provided by a person registered (~~or certified~~) under this chapter.

29 **Sec. 18.** RCW 18.19.020 and 1991 c 3 s 19 are each amended to read
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in
32 this section apply throughout this chapter.

33 (1) (~~"Certified marriage and family therapist" means a person~~
34 ~~certified to practice marriage and family therapy pursuant to RCW~~
35 ~~18.19.130.~~

1 ~~(2) "Certified mental health counselor" means a person certified to~~
2 ~~practice mental health counseling pursuant to RCW 18.19.120.~~

3 ~~(3) "Certified social worker" means a person certified to practice~~
4 ~~social work pursuant to RCW 18.19.110.~~

5 ~~(4))~~ "Client" means an individual who receives or participates in
6 counseling or group counseling.

7 ~~((5))~~ (2) "Counseling" means employing any therapeutic
8 techniques, including but not limited to social work, mental health
9 counseling, marriage and family therapy, and hypnotherapy, for a fee
10 that offer, assist or attempt to assist an individual or individuals in
11 the amelioration or adjustment of mental, emotional, or behavioral
12 problems, and includes therapeutic techniques to achieve sensitivity
13 and awareness of self and others and the development of human
14 potential. For the purposes of this chapter, nothing may be construed
15 to imply that the practice of hypnotherapy is necessarily limited to
16 counseling.

17 ~~((6))~~ (3) "Counselor" means an individual, practitioner,
18 therapist, or analyst who engages in the practice of counseling to the
19 public for a fee, including for the purposes of this chapter,
20 hypnotherapists.

21 ~~((7))~~ (4) "Department" means the department of health.

22 ~~((8))~~ (5) "Secretary" means the secretary of the department or
23 the secretary's designee.

24 **Sec. 19.** RCW 18.19.030 and 1991 c 3 s 20 are each amended to read
25 as follows:

26 No person may, for a fee or as a part of his or her position as an
27 employee of a state agency, practice counseling without being
28 registered to practice by the department under this chapter unless
29 exempt under RCW 18.19.040. ~~((No person may represent himself or~~
30 ~~herself as a certified social worker, certified mental health~~
31 ~~counselor, or certified marriage and family therapist without being so~~
32 ~~certified by the department under this chapter.))~~

33 **Sec. 20.** RCW 18.19.040 and 1987 c 512 s 4 are each amended to read
34 as follows:

35 Nothing in this chapter may be construed to prohibit or restrict:

36 (1) The practice of a profession by a person who is either
37 registered, certified, licensed, or similarly regulated under the laws

1 of this state and who is performing services within the person's
2 authorized scope of practice, including any attorney admitted to
3 practice law in this state when providing counseling incidental to and
4 in the course of providing legal counsel;

5 (2) The practice of counseling by an employee or trainee of any
6 federal agency, or the practice of counseling by a student of a college
7 or university, if the employee, trainee, or student is practicing
8 solely under the supervision of and accountable to the agency, college,
9 or university, through which he or she performs such functions as part
10 of his or her position for no additional fee other than ordinary
11 compensation;

12 (3) The practice of counseling by a person without a mandatory
13 charge;

14 (4) The practice of counseling by persons offering services for
15 public and private nonprofit organizations or charities not primarily
16 engaged in counseling for a fee when approved by the organizations or
17 agencies for whom they render their services;

18 (5) Evaluation, consultation, planning, policy-making, research, or
19 related services conducted by social scientists for private
20 corporations or public agencies;

21 (6) The practice of counseling by a person under the auspices of a
22 religious denomination, church, or organization, or the practice of
23 religion itself;

24 (7) Counselors whose residency is not Washington state from
25 providing up to ten days per quarter of training or workshops in the
26 state, as long as they don't hold themselves out to be registered ((or
27 eertified)) in Washington state.

28 **Sec. 21.** RCW 18.19.050 and 1991 c 3 s 21 are each amended to read
29 as follows:

30 (1) In addition to any other authority provided by law, the
31 secretary has the following authority:

32 (a) To adopt rules, in accordance with chapter 34.05 RCW, necessary
33 to implement this chapter;

34 (b) To set all ((certification,)) registration((,)) and renewal
35 fees in accordance with RCW 43.70.250 and to collect and deposit all
36 such fees in the health professions account established under RCW
37 43.70.320;

1 (c) To establish forms and procedures necessary to administer this
2 chapter;

3 (d) To hire clerical, administrative, and investigative staff as
4 needed to implement this chapter;

5 (e) To issue a registration to any applicant who has met the
6 requirements for registration; and

7 ~~(f) ((To set educational, ethical, and professional standards of
8 practice for certification;~~

9 ~~(g) To prepare and administer or cause to be prepared and
10 administered an examination for all qualified applicants for
11 certification;~~

12 ~~(h) To establish criteria for evaluating the ability and
13 qualifications of persons applying for a certificate, including
14 standards for passing the examination and standards of qualification
15 for certification to practice;~~

16 ~~(i) To evaluate and designate those schools from which graduation
17 will be accepted as proof of an applicant's eligibility to receive a
18 certificate and to establish standards and procedures for accepting
19 alternative training in lieu of such graduation;~~

20 ~~(j) To issue a certificate to any applicant who has met the
21 education, training, and conduct requirements for certification;~~

22 ~~(k) To set competence requirements for maintaining certification;~~
23 ~~and~~

24 ~~(l))~~ To develop a dictionary of recognized professions and
25 occupations providing counseling services to the public included under
26 this chapter.

27 (2) The uniform disciplinary act, chapter 18.130 RCW, governs the
28 issuance and denial of ~~((certifications and))~~ registrations and the
29 discipline of ~~((certified practitioners and))~~ registrants under this
30 chapter. The secretary shall be the disciplining authority under this
31 chapter. The absence of educational or training requirements for
32 counselors registered under this chapter or the counselor's use of
33 nontraditional nonabusive therapeutic techniques shall not, in and of
34 itself, give the secretary authority to unilaterally determine the
35 training and competence or to define or restrict the scope of practice
36 of such individuals.

37 (3) The department shall publish and disseminate information in
38 order to educate the public about the responsibilities of counselors
39 and the rights and responsibilities of clients established under this

1 chapter. Solely for the purposes of administering this education
2 requirement, the secretary shall assess an additional fee for each
3 (~~registration and certification~~) application and renewal, equal to
4 five percent of the fee. The revenue collected from the assessment fee
5 may be appropriated by the legislature for the department's use in
6 educating consumers pursuant to this section. The authority to charge
7 the assessment fee shall terminate on June 30, 1994.

8 **Sec. 22.** RCW 18.19.060 and 1987 c 512 s 6 are each amended to read
9 as follows:

10 Persons registered (~~or certified~~) under this chapter shall
11 provide clients at the commencement of any program of treatment with
12 accurate disclosure information concerning their practice, in
13 accordance with guidelines developed by the department, that will
14 inform clients of the purposes of and resources available under this
15 chapter, including the right of clients to refuse treatment, the
16 responsibility of clients for choosing the provider and treatment
17 modality which best suits their needs, and the extent of
18 confidentiality provided by this chapter. The disclosure information
19 provided by the counselor, the receipt of which shall be acknowledged
20 in writing by the counselor and client, shall include any relevant
21 education and training, the therapeutic orientation of the practice,
22 the proposed course of treatment where known, any financial
23 requirements, and such other information as the department may require
24 by rule. The disclosure information shall also include a statement
25 that registration of an individual under this chapter does not include
26 a recognition of any practice standards, nor necessarily imply the
27 effectiveness of any treatment.

28 **Sec. 23.** RCW 18.19.080 and 1991 c 3 s 23 are each amended to read
29 as follows:

30 The secretary shall keep an official record of all proceedings, a
31 part of which record shall consist of a register of all applicants for
32 registration (~~or certification~~) under this chapter, with the result
33 of each application.

34 **Sec. 24.** RCW 18.19.180 and 1991 c 3 s 33 are each amended to read
35 as follows:

1 An individual registered (~~(or certified)~~) under this chapter shall
2 not disclose the written acknowledgment of the disclosure statement
3 pursuant to RCW 18.19.060 nor any information acquired from persons
4 consulting the individual in a professional capacity when that
5 information was necessary to enable the individual to render
6 professional services to those persons except:

7 (1) With the written consent of that person or, in the case of
8 death or disability, the person's personal representative, other person
9 authorized to sue, or the beneficiary of an insurance policy on the
10 person's life, health, or physical condition;

11 (2) That a person registered (~~(or certified)~~) under this chapter is
12 not required to treat as confidential a communication that reveals the
13 contemplation or commission of a crime or harmful act;

14 (3) If the person is a minor, and the information acquired by the
15 person registered (~~(or certified)~~) under this chapter indicates that
16 the minor was the victim or subject of a crime, the person registered
17 (~~(or certified)~~) may testify fully upon any examination, trial, or
18 other proceeding in which the commission of the crime is the subject of
19 the inquiry;

20 (4) If the person waives the privilege by bringing charges against
21 the person registered (~~(or certified)~~) under this chapter;

22 (5) In response to a subpoena from a court of law or the secretary.
23 The secretary may subpoena only records related to a complaint or
24 report under chapter 18.130 RCW; or

25 (6) As required under chapter 26.44 RCW.

26 **Sec. 25.** RCW 18.19.190 and 1987 c 512 s 18 are each amended to
27 read as follows:

28 This chapter shall not be construed as permitting the
29 administration or prescription of drugs or in any way infringing upon
30 the practice of medicine and surgery as defined in chapter 18.71 RCW,
31 or in any way infringing upon the practice of psychology as defined in
32 chapter 18.83 RCW, or restricting the scope of the practice of
33 counseling for those registered (~~(or certified)~~) under this chapter.

34 **Sec. 26.** RCW 18.120.020 and 2000 c 93 s 15 are each amended to
35 read as follows:

36 The definitions in this section apply throughout this chapter
37 unless the context clearly requires otherwise.

1 (1) "Applicant group" includes any health professional group or
2 organization, any individual, or any other interested party which
3 proposes that any health professional group not presently regulated be
4 regulated or which proposes to substantially increase the scope of
5 practice of the profession.

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

11 (3) "Grandfather clause" means a provision in a regulatory statute
12 applicable to practitioners actively engaged in the regulated health
13 profession prior to the effective date of the regulatory statute which
14 exempts the practitioners from meeting the prerequisite qualifications
15 set forth in the regulatory statute to perform prescribed occupational
16 tasks.

17 (4) "Health professions" means and includes the following health
18 and health-related licensed or regulated professions and occupations:
19 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
20 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
21 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
22 dispensing opticians under chapter 18.34 RCW; hearing instruments under
23 chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
24 funeral directing under chapter 18.39 RCW; midwifery under chapter
25 18.50 RCW; nursing home administration under chapter 18.52 RCW;
26 optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter
27 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and
28 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine
29 under chapters 18.71 and 18.71A RCW; emergency medicine under chapter
30 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses
31 under chapter 18.79 RCW; psychologists under chapter 18.83 RCW;
32 registered nurses under chapter 18.79 RCW; occupational therapists
33 licensed under chapter 18.59 RCW; respiratory care practitioners
34 licensed under chapter 18.89 RCW; veterinarians and veterinary
35 technicians under chapter 18.92 RCW; health care assistants under
36 chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW;
37 acupuncturists licensed under chapter 18.06 RCW; persons registered
38 (~~or certified~~) under chapter 18.19 RCW; persons licensed as mental
39 health counselors, marriage and family therapists, and social workers

1 under chapter 18.-- RCW (sections 1 through 16 of this act); dietitians
2 and nutritionists certified by chapter 18.138 RCW; radiologic
3 technicians under chapter 18.84 RCW; and nursing assistants registered
4 or certified under chapter 18.88A RCW.

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

9 (6) "Legislative committees of reference" means the standing
10 legislative committees designated by the respective rules committees of
11 the senate and house of representatives to consider proposed
12 legislation to regulate health professions not previously regulated.

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

18 (8) "Professional license" means an individual, nontransferable
19 authorization to carry on a health activity based on qualifications
20 which include: (a) Graduation from an accredited or approved program,
21 and (b) acceptable performance on a qualifying examination or series of
22 examinations.

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

26 (10) "Public member" means an individual who is not, and never was,
27 a member of the health profession being regulated or the spouse of a
28 member, or an individual who does not have and never has had a material
29 financial interest in either the rendering of the health professional
30 service being regulated or an activity directly related to the
31 profession being regulated.

32 (11) "Registration" means the formal notification which, prior to
33 rendering services, a practitioner shall submit to a state agency
34 setting forth the name and address of the practitioner; the location,
35 nature and operation of the health activity to be practiced; and, if
36 required by the regulatory entity, a description of the service to be
37 provided.

38 (12) "Regulatory entity" means any board, commission, agency,
39 division, or other unit or subunit of state government which regulates

1 one or more professions, occupations, industries, businesses, or other
2 endeavors in this state.

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

7 **Sec. 27.** RCW 18.130.040 and 1999 c 335 s 10 are each amended to
8 read as follows:

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

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

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

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

18 (iii) Midwives licensed under chapter 18.50 RCW;

19 (iv) Ocularists licensed under chapter 18.55 RCW;

20 (v) Massage operators and businesses licensed under chapter 18.108
21 RCW;

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

23 (vii) Acupuncturists licensed under chapter 18.06 RCW;

24 (viii) Radiologic technologists certified and X-ray technicians
25 registered under chapter 18.84 RCW;

26 (ix) Respiratory care practitioners licensed under chapter 18.89
27 RCW;

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

29 (xi) Persons licensed as mental health counselors, marriage and
30 family therapists, and social workers under chapter 18.-- RCW (sections
31 1 through 16 of this act);

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

34 (~~(xii)~~) (xiii) Nursing assistants registered or certified under
35 chapter 18.88A RCW;

36 (~~(xiii)~~) (xiv) Health care assistants certified under chapter
37 18.135 RCW;

1 (~~(xiv)~~) (xv) Dietitians and nutritionists certified under chapter
2 18.138 RCW;

3 (~~(xv)~~) (xvi) Chemical dependency professionals certified under
4 chapter 18.205 RCW;

5 (~~(xvi)~~) (xvii) Sex offender treatment providers certified under
6 chapter 18.155 RCW;

7 (~~(xvii)~~) (xviii) Persons licensed and certified under chapter
8 18.73 RCW or RCW 18.71.205;

9 (~~(xviii)~~) (xix) Persons registered as adult family home providers
10 and resident managers under RCW 18.48.020;

11 (~~(xix)~~) (xx) Denturists licensed under chapter 18.30 RCW;

12 (~~(xx)~~) (xxi) Orthotists and prosthetists licensed under chapter
13 18.200 RCW; and

14 (~~(xxi)~~) (xxii) Surgical technologists registered under chapter
15 18.215 RCW.

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

18 (i) The podiatric medical board as established in chapter 18.22
19 RCW;

20 (ii) The chiropractic quality assurance commission as established
21 in chapter 18.25 RCW;

22 (iii) The dental quality assurance commission as established in
23 chapter 18.32 RCW;

24 (iv) The board of hearing and speech as established in chapter
25 18.35 RCW;

26 (v) The board of examiners for nursing home administrators as
27 established in chapter 18.52 RCW;

28 (vi) The optometry board as established in chapter 18.54 RCW
29 governing licenses issued under chapter 18.53 RCW;

30 (vii) The board of osteopathic medicine and surgery as established
31 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
32 18.57A RCW;

33 (viii) The board of pharmacy as established in chapter 18.64 RCW
34 governing licenses issued under chapters 18.64 and 18.64A RCW;

35 (ix) The medical quality assurance commission as established in
36 chapter 18.71 RCW governing licenses and registrations issued under
37 chapters 18.71 and 18.71A RCW;

38 (x) The board of physical therapy as established in chapter 18.74
39 RCW;

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

3 (xii) The nursing care quality assurance commission as established
4 in chapter 18.79 RCW governing licenses issued under that chapter;

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

7 (xiv) The veterinary board of governors as established in chapter
8 18.92 RCW.

9 (3) In addition to the authority to discipline license holders, the
10 disciplining authority has the authority to grant or deny licenses
11 based on the conditions and criteria established in this chapter and
12 the chapters specified in subsection (2) of this section. This chapter
13 also governs any investigation, hearing, or proceeding relating to
14 denial of licensure or issuance of a license conditioned on the
15 applicant's compliance with an order entered pursuant to RCW 18.130.160
16 by the disciplining authority.

17 (4) All disciplining authorities shall adopt procedures to ensure
18 substantially consistent application of this chapter, the Uniform
19 Disciplinary Act, among the disciplining authorities listed in
20 subsection (2) of this section.

21 **Sec. 28.** RCW 9A.44.010 and 1997 c 392 s 513 and 1997 c 112 s 37
22 are each reenacted and amended to read as follows:

23 As used in this chapter:

24 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
25 upon any penetration, however slight, and

26 (b) Also means any penetration of the vagina or anus however
27 slight, by an object, when committed on one person by another, whether
28 such persons are of the same or opposite sex, except when such
29 penetration is accomplished for medically recognized treatment or
30 diagnostic purposes, and

31 (c) Also means any act of sexual contact between persons involving
32 the sex organs of one person and the mouth or anus of another whether
33 such persons are of the same or opposite sex.

34 (2) "Sexual contact" means any touching of the sexual or other
35 intimate parts of a person done for the purpose of gratifying sexual
36 desire of either party or a third party.

37 (3) "Married" means one who is legally married to another, but does
38 not include a person who is living separate and apart from his or her

1 spouse and who has filed in an appropriate court for legal separation
2 or for dissolution of his or her marriage.

3 (4) "Mental incapacity" is that condition existing at the time of
4 the offense which prevents a person from understanding the nature or
5 consequences of the act of sexual intercourse whether that condition is
6 produced by illness, defect, the influence of a substance or from some
7 other cause.

8 (5) "Physically helpless" means a person who is unconscious or for
9 any other reason is physically unable to communicate unwillingness to
10 an act.

11 (6) "Forcible compulsion" means physical force which overcomes
12 resistance, or a threat, express or implied, that places a person in
13 fear of death or physical injury to herself or himself or another
14 person, or in fear that she or he or another person will be kidnapped.

15 (7) "Consent" means that at the time of the act of sexual
16 intercourse or sexual contact there are actual words or conduct
17 indicating freely given agreement to have sexual intercourse or sexual
18 contact.

19 (8) "Significant relationship" means a situation in which the
20 perpetrator is:

21 (a) A person who undertakes the responsibility, professionally or
22 voluntarily, to provide education, health, welfare, or organized
23 recreational activities principally for minors;

24 (b) A person who in the course of his or her employment supervises
25 minors; or

26 (c) A person who provides welfare, health or residential
27 assistance, personal care, or organized recreational activities to
28 frail elders or vulnerable adults, including a provider, employee,
29 temporary employee, volunteer, or independent contractor who supplies
30 services to long-term care facilities licensed or required to be
31 licensed under chapter 18.20, 18.51, 72.36, or 70.128 RCW, and home
32 health, hospice, or home care agencies licensed or required to be
33 licensed under chapter 70.127 RCW, but not including a consensual
34 sexual partner.

35 (9) "Abuse of a supervisory position" means a direct or indirect
36 threat or promise to use authority to the detriment or benefit of a
37 minor.

1 (10) "Developmentally disabled," for purposes of RCW
2 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
3 developmental disability as defined in RCW 71A.10.020.

4 (11) "Person with supervisory authority," for purposes of RCW
5 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
6 proprietor or employee of any public or private care or treatment
7 facility who directly supervises developmentally disabled, mentally
8 disordered, or chemically dependent persons at the facility.

9 (12) "Mentally disordered person" for the purposes of RCW
10 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
11 disorder" as defined in RCW 71.05.020.

12 (13) "Chemically dependent person" for purposes of RCW
13 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
14 dependent" as defined in RCW 70.96A.020(4).

15 (14) "Health care provider" for purposes of RCW 9A.44.050 and
16 9A.44.100 means a person who is, holds himself or herself out to be, or
17 provides services as if he or she were: (a) A member of a health care
18 profession under chapter 18.130 RCW; or (b) registered (~~or certified~~)
19 under chapter 18.19 RCW or licensed under chapter 18.-- RCW (sections
20 1 through 16 of this act), regardless of whether the health care
21 provider is licensed, certified, or registered by the state.

22 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
23 the active delivery of professional services by a health care provider
24 which the health care provider holds himself or herself out to be
25 qualified to provide.

26 (16) "Frail elder or vulnerable adult" means a person sixty years
27 of age or older who has the functional, mental, or physical inability
28 to care for himself or herself. "Frail elder or vulnerable adult" also
29 includes a person found incapacitated under chapter 11.88 RCW, a person
30 over eighteen years of age who has a developmental disability under
31 chapter 71A.10 RCW, a person admitted to a long-term care facility that
32 is licensed or required to be licensed under chapter 18.20, 18.51,
33 72.36, or 70.128 RCW, and a person receiving services from a home
34 health, hospice, or home care agency licensed or required to be
35 licensed under chapter 70.127 RCW.

36 **Sec. 29.** RCW 18.100.050 and 1999 c 128 s 1 are each amended to
37 read as follows:

1 (1) An individual or group of individuals duly licensed or
2 otherwise legally authorized to render the same professional services
3 within this state may organize and become a shareholder or shareholders
4 of a professional corporation for pecuniary profit under the provisions
5 of Title 23B RCW for the purpose of rendering professional service.
6 One or more of the legally authorized individuals shall be the
7 incorporators of the professional corporation.

8 (2) Notwithstanding any other provision of this chapter, registered
9 architects and registered engineers may own stock in and render their
10 individual professional services through one professional service
11 corporation.

12 (3) Licensed health care professionals, providing services to
13 enrolled participants either directly or through arrangements with a
14 health maintenance organization registered under chapter 48.46 RCW or
15 federally qualified health maintenance organization, may own stock in
16 and render their individual professional services through one
17 professional service corporation.

18 (4) Professionals may organize a nonprofit nonstock corporation
19 under this chapter and chapter 24.03 RCW to provide professional
20 services, and the provisions of this chapter relating to stock and
21 referring to Title 23B RCW shall not apply to any such corporation.

22 (5)(a) Notwithstanding any other provision of this chapter, health
23 care professionals who are licensed or certified pursuant to chapters
24 18.06, (~~(18.197)~~) 18.-- (sections 1 through 16 of this act), 18.22,
25 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A,
26 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may
27 own stock in and render their individual professional services through
28 one professional service corporation and are to be considered, for the
29 purpose of forming a professional service corporation, as rendering the
30 "same specific professional services" or "same professional services"
31 or similar terms.

32 (b) Notwithstanding any other provision of this chapter, health
33 care professionals who are regulated under chapters 18.59 and 18.74 RCW
34 may own stock in and render their individual professional services
35 through one professional service corporation formed for the sole
36 purpose of providing professional services within their respective
37 scope of practice.

38 (c) Formation of a professional service corporation under this
39 subsection does not restrict the application of the uniform

1 disciplinary act under chapter 18.130 RCW, or applicable health care
2 professional statutes under Title 18 RCW, including but not limited to
3 restrictions on persons practicing a health profession without being
4 appropriately credentialed and persons practicing beyond the scope of
5 their credential.

6 **Sec. 30.** RCW 18.205.090 and 1998 c 243 s 9 are each amended to
7 read as follows:

8 (1) The secretary shall issue a certificate to any applicant who
9 demonstrates to the secretary's satisfaction that the following
10 requirements have been met:

11 (a) Completion of an educational program approved by the secretary
12 or successful completion of alternate training that meets established
13 criteria;

14 (b) Successful completion of an approved examination, based on core
15 competencies of chemical dependency counseling; and

16 (c) Successful completion of an experience requirement that
17 establishes fewer hours of experience for applicants with higher levels
18 of relevant education. In meeting any experience requirement
19 established under this subsection, the secretary may not require more
20 than one thousand five hundred hours of experience in chemical
21 dependency counseling for applicants who are licensed under chapter
22 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse
23 practitioners.

24 (2) The secretary shall establish by rule what constitutes adequate
25 proof of meeting the criteria.

26 (3) Applicants are subject to the grounds for denial of a
27 certificate or issuance of a conditional certificate under chapter
28 18.130 RCW.

29 (4) Certified chemical dependency professionals shall not be
30 required to be registered under chapter 18.19 RCW or licensed under
31 chapter 18.-- RCW (sections 1 through 16 of this act).

32 **Sec. 31.** RCW 25.05.510 and 1998 c 103 s 1103 are each amended to
33 read as follows:

34 (1) A person or group of persons licensed or otherwise legally
35 authorized to render professional services, as defined in RCW
36 18.100.030, within this state may organize and become a member or
37 members of a limited liability partnership under the provisions of this

1 chapter for the purposes of rendering professional service. Nothing in
2 this section prohibits a person duly licensed or otherwise legally
3 authorized to render professional services in any jurisdiction other
4 than this state from becoming a member of a limited liability
5 partnership organized for the purpose of rendering the same
6 professional services. Nothing in this section prohibits a limited
7 liability partnership from rendering professional services outside this
8 state through individuals who are not duly licensed or otherwise
9 legally authorized to render such professional services within this
10 state.

11 (2)(a) Notwithstanding any other provision of this chapter, health
12 care professionals who are licensed or certified pursuant to chapters
13 18.06, (~~18.197~~) 18.-- (sections 1 through 16 of this act), 18.22,
14 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.64, 18.79,
15 18.83, 18.89, 18.108, and 18.138 RCW may join and render their
16 individual professional services through one limited liability
17 partnership and are to be considered, for the purpose of forming a
18 limited liability partnership, as rendering the "same specific
19 professional services" or "same professional services" or similar
20 terms.

21 (b) Notwithstanding any other provision of this chapter, health
22 care professionals who are licensed pursuant to chapters 18.57 and
23 18.71 RCW may join and render their individual professional services
24 through one limited liability partnership and are to be considered, for
25 the purpose of forming a limited liability partnership, as rendering
26 the "same specific professional services" or "same professional
27 services" or similar terms.

28 (c) Formation of a limited liability partnership under this
29 subsection does not restrict the application of the uniform
30 disciplinary act under chapter 18.130 RCW, or any applicable health
31 care professional statutes under Title 18 RCW, including but not
32 limited to restrictions on persons practicing a health profession
33 without being appropriately credentialed and persons practicing beyond
34 the scope of their credential.

35 **Sec. 32.** RCW 25.15.045 and 1999 c 128 s 2 are each amended to read
36 as follows:

37 (1) A person or group of persons licensed or otherwise legally
38 authorized to render professional services within this or any other

1 state may organize and become a member or members of a professional
2 limited liability company under the provisions of this chapter for the
3 purposes of rendering professional service. A "professional limited
4 liability company" is subject to all the provisions of chapter 18.100
5 RCW that apply to a professional corporation, and its managers,
6 members, agents, and employees shall be subject to all the provisions
7 of chapter 18.100 RCW that apply to the directors, officers,
8 shareholders, agents, or employees of a professional corporation,
9 except as provided otherwise in this section. Nothing in this section
10 prohibits a person duly licensed or otherwise legally authorized to
11 render professional services in any jurisdiction other than this state
12 from becoming a member of a professional limited liability company
13 organized for the purpose of rendering the same professional services.
14 Nothing in this section prohibits a professional limited liability
15 company from rendering professional services outside this state through
16 individuals who are not duly licensed or otherwise legally authorized
17 to render such professional services within this state. Persons
18 engaged in a profession and otherwise meeting the requirements of this
19 chapter may operate under this chapter as a professional limited
20 liability company so long as each member personally engaged in the
21 practice of the profession in this state is duly licensed or otherwise
22 legally authorized to practice the profession in this state and:

23 (a) At least one manager of the company is duly licensed or
24 otherwise legally authorized to practice the profession in this state;
25 or

26 (b) Each member in charge of an office of the company in this state
27 is duly licensed or otherwise legally authorized to practice the
28 profession in this state.

29 (2) If the company's members are required to be licensed to
30 practice such profession, and the company fails to maintain for itself
31 and for its members practicing in this state a policy of professional
32 liability insurance, bond, or other evidence of financial
33 responsibility of a kind designated by rule by the state insurance
34 commissioner and in the amount of at least one million dollars or a
35 greater amount as the state insurance commissioner may establish by
36 rule for a licensed profession or for any specialty within a
37 profession, taking into account the nature and size of the business,
38 then the company's members are personally liable to the extent that,

1 had the insurance, bond, or other evidence of responsibility been
2 maintained, it would have covered the liability in question.

3 (3) For purposes of applying the provisions of chapter 18.100 RCW
4 to a professional limited liability company, the terms "director" or
5 "officer" means manager, "shareholder" means member, "corporation"
6 means professional limited liability company, "articles of
7 incorporation" means certificate of formation, "shares" or "capital
8 stock" means a limited liability company interest, "incorporator" means
9 the person who executes the certificate of formation, and "bylaws"
10 means the limited liability company agreement.

11 (4) The name of a professional limited liability company must
12 contain either the words "Professional Limited Liability Company," or
13 the words "Professional Limited Liability" and the abbreviation "Co.,"
14 or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a
15 professional limited liability company organized to render dental
16 services shall contain the full names or surnames of all members and no
17 other word than "chartered" or the words "professional services" or the
18 abbreviation "P.L.L.C." or "PLLC."

19 (5) Subject to the provisions in article VII of this chapter, the
20 following may be a member of a professional limited liability company
21 and may be the transferee of the interest of an ineligible person or
22 deceased member of the professional limited liability company:

23 (a) A professional corporation, if its shareholders, directors, and
24 its officers other than the secretary and the treasurer, are licensed
25 or otherwise legally authorized to render the same specific
26 professional services as the professional limited liability company;
27 and

28 (b) Another professional limited liability company, if the managers
29 and members of both professional limited liability companies are
30 licensed or otherwise legally authorized to render the same specific
31 professional services.

32 (6)(a) Notwithstanding any other provision of this chapter, health
33 care professionals who are licensed or certified pursuant to chapters
34 18.06, (~~(18.197)~~) 18.-- (sections 1 through 16 of this act), 18.22,
35 18.25, 18.29, 18.34, 18.35, 18.36A, 18.50, 18.53, 18.55, 18.57, 18.57A,
36 18.64, 18.71, 18.71A, 18.79, 18.83, 18.89, 18.108, and 18.138 RCW may
37 own membership interests in and render their individual professional
38 services through one limited liability company and are to be
39 considered, for the purpose of forming a limited liability company, as

1 rendering the "same specific professional services" or "same
2 professional services" or similar terms.

3 (b) Notwithstanding any other provision of this chapter, health
4 care professionals who are regulated under chapters 18.59 and 18.74 RCW
5 may own membership interests in and render their individual
6 professional services through one limited liability company formed for
7 the sole purpose of providing professional services within their
8 respective scope of practice.

9 (c) Formation of a limited liability company under this subsection
10 does not restrict the application of the uniform disciplinary act under
11 chapter 18.130 RCW, or any applicable health care professional statutes
12 under Title 18 RCW, including but not limited to restrictions on
13 persons practicing a health profession without being appropriately
14 credentialed and persons practicing beyond the scope of their
15 credential.

16 **Sec. 33.** RCW 48.43.087 and 1996 c 304 s 1 are each amended to read
17 as follows:

18 (1) For purposes of this section:

19 (a) "Health carrier" includes disability insurers regulated under
20 chapter 48.20 or 48.21 RCW, health care services contractors regulated
21 under chapter 48.44 RCW, plans operating under the health care
22 authority under chapter 41.05 RCW, the basic health plan operating
23 under chapter 70.47 RCW, the state health insurance pool operating
24 under chapter 48.41 RCW, insuring entities regulated under this
25 chapter, and health maintenance organizations regulated under chapter
26 48.46 RCW.

27 (b) "Intermediary" means a person duly authorized to negotiate and
28 execute provider contracts with health carriers on behalf of mental
29 health care practitioners.

30 (c) Consistent with their lawful scopes of practice, "mental health
31 care practitioners" includes only the following: Any generally
32 recognized medical specialty of practitioners licensed under chapter
33 18.57 or 18.71 RCW who provide mental health services, advanced
34 practice psychiatric nurses as authorized by the nursing care quality
35 assurance commission under chapter 18.79 RCW, psychologists licensed
36 under chapter 18.83 RCW, (~~social workers, marriage and family~~
37 ~~therapists, and mental health counselors certified under chapter 18.19~~
38 ~~RCW~~) and mental health counselors, marriage and family therapists, and

1 social workers licensed under chapter 18.-- RCW (sections 1 through 16
2 of this act).

3 (d) "Mental health services" means outpatient services.

4 (2) Consistent with federal and state law and rule, no contract
5 between a mental health care practitioner and an intermediary or
6 between a mental health care practitioner and a health carrier that is
7 written, amended, or renewed after June 6, 1996, may contain a
8 provision prohibiting a practitioner and an enrollee from agreeing to
9 contract for services solely at the expense of the enrollee as follows:

10 (a) On the exhaustion of the enrollee's mental health care
11 coverage;

12 (b) During an appeal or an adverse certification process;

13 (c) When an enrollee's condition is excluded from coverage; or

14 (d) For any other clinically appropriate reason at any time.

15 (3) If a mental health care practitioner provides services to an
16 enrollee during an appeal or adverse certification process, the
17 practitioner must provide to the enrollee written notification that the
18 enrollee is responsible for payment of these services, unless the
19 health carrier elects to pay for services provided.

20 (4) This section does not apply to a mental health care
21 practitioner who is employed full time on the staff of a health
22 carrier.

23 NEW SECTION. Sec. 34. A new section is added to chapter 70.02 RCW
24 to read as follows:

25 Mental health counselors, marriage and family therapists, and
26 social workers licensed under chapter 18.-- RCW (sections 1 through 16
27 of this act) are subject to this chapter.

28 NEW SECTION. Sec. 35. If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. Sec. 36. Sections 1 through 16 of this act
33 constitute a new chapter in Title 18 RCW.

34 NEW SECTION. Sec. 37. The following acts or parts of acts are
35 each repealed:

1 (1) RCW 18.19.070 (Council established--Membership--
2 Qualifications--Removal--Vacancy--Duties and powers--Compensation) and
3 1996 c 191 s 4, 1994 sp.s. c 9 s 501, 1991 c 3 s 22, & 1987 c 512 s 7;
4 (2) RCW 18.19.110 (Certification of social workers) and 1991 c 3 s
5 26 & 1987 c 512 s 12;
6 (3) RCW 18.19.120 (Certification of mental health counselors--
7 Practice defined--Continuing education) and 1995 c 183 s 1, 1991 c 3 s
8 27, & 1987 c 512 s 13;
9 (4) RCW 18.19.130 (Certification of marriage and family
10 therapists--Practice defined) and 1993 c 259 s 1, 1991 c 3 s 28, & 1987
11 c 512 s 14;
12 (5) RCW 18.19.140 (Applications for certification) and 1991 c 3 s
13 29 & 1987 c 512 s 17;
14 (6) RCW 18.19.150 (Examination of applicants for certification) and
15 1991 c 3 s 30 & 1987 c 512 s 16;
16 (7) RCW 18.19.160 (Certification of persons credentialed out-of-
17 state--Temporary retirement of certified persons) and 1991 c 3 s 31 &
18 1987 c 512 s 19; and
19 (8) RCW 18.19.170 (Renewal of certificates--Continuing education)
20 and 1998 c 32 s 1, 1996 c 191 s 6, 1991 c 3 s 32, & 1987 c 512 s 15.

Passed the Senate April 17, 2001.

Passed the House April 6, 2001.

Approved by the Governor May 11, 2001.

Filed in Office of Secretary of State May 11, 2001.