
HOUSE BILL 2906

State of Washington

60th Legislature

2008 Regular Session

By Representatives Hinkle and Moeller

Read first time 01/17/08. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to the medical disciplinary act; amending RCW
2 18.71.002, 18.71.003, 18.71.010, 18.71.015, 18.71.017, 18.71.017,
3 18.71.019, 18.71.0191, 18.71.0195, 18.71.0195, 18.71.030, 18.71.040,
4 18.71.050, 18.71.051, 18.71.055, 18.71.060, 18.71.070, 18.71.080,
5 18.71.085, 18.71.090, 18.71.095, 18.71.230, 18.71.300, 18.71.310,
6 18.71.315, 18.71.320, 18.71.330, 18.71.350, 18.71A.010, 18.71A.020,
7 18.71A.025, 18.71A.030, 18.71A.050, 18.71A.085, 18.50.115, 69.45.010,
8 69.50.402, 69.51A.010, 69.51A.070, 70.41.200, 70.41.230, 74.09.290, and
9 74.42.230; reenacting and amending RCW 18.71.205, 18.71A.040,
10 18.130.040, 18.130.040, 69.41.030, and 70.41.200; adding new sections
11 to chapter 18.71 RCW; adding a new chapter to Title 18 RCW; creating
12 new sections; repealing RCW 18.71.401 and 18.71.420; prescribing
13 penalties; providing effective dates; providing expiration dates.

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

15 NEW SECTION. **Sec. 1.** Since statehood, Washington's Constitution
16 has provided for the regulation of the practice of medicine and the
17 sale of drugs and medicines. This constitutional provision reflects
18 the importance of regulating health care practitioners and the need to
19 protect public health and safety.

1 The legislature finds that the effective and efficient operation of
2 a medical disciplining authority to perform mandated duties and protect
3 the health, safety, and welfare of Washington's citizens is paramount.

4 A disciplining authority must be accountable to the citizens of
5 this state, the governor, and the legislature. In order to be
6 accountable, a medical disciplining authority must have the authority
7 to determine and implement policy within the law; set goals and
8 objectives; and manage its affairs.

9 The legislature intends to implement nationally recognized
10 recommendations and best practices for medical regulation, including
11 establishing an independent medical disciplining authority with control
12 over its fiscal and staff resources.

13 **PART I - CREATION OF THE MEDICAL BOARD FOR SAFETY AND QUALITY**

14 **Purpose of the Medical Board for Safety and Quality**

15 **Sec. 101.** RCW 18.71.002 and 1994 sp.s. c 9 s 301 are each amended
16 to read as follows:

17 It is the purpose of the medical (~~(quality assurance commission)~~)
18 board for safety and quality to (~~(regulate)~~) protect the public health
19 through regulating the competency and quality of (~~(professional health~~
20 ~~care providers)~~) physicians and physician assistants under its
21 jurisdiction by establishing, monitoring, and enforcing qualifications
22 for licensing, consistent standards of practice, continuing competency
23 mechanisms and quality care improvement programs, and (~~(discipline)~~) an
24 efficient and fair disciplinary process. Rules, policies, and
25 procedures developed by the (~~(commission)~~) board must promote the
26 delivery of quality health care to the residents of the state of
27 Washington.

28 **Protecting the Public with an Independent Medical**
29 **Board for Safety and Quality**

30 **Sec. 102.** RCW 18.71.003 and 1955 c 202 s 1 are each amended to
31 read as follows:

32 This chapter is passed:

33 (1) In the exercise of the police power of the state to protect
34 public health, to promote the welfare of the state, and to provide an

1 adequate public agency to act as a disciplinary body for the members of
2 the medical profession licensed to practice medicine and surgery in
3 this state;

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

6 (3) Because the relationship between the people of this state and
7 the members of the medical profession licensed to practice medicine and
8 surgery in this state is of such a unique and personal nature;

9 (4) Because the conduct of members of the medical profession
10 licensed to practice medicine and surgery in this state plays a vital
11 role in preserving the health and well-being of the people of the
12 state; ((and

13 ~~(4))~~ (5) ~~Because the ((agency which now exists to handle~~
14 ~~disciplinary proceedings for members of the medical profession licensed~~
15 ~~to practice medicine and surgery in this state is ineffective and very~~
16 ~~infrequently employed, and consequently there is no effective means of~~
17 ~~handling such disciplinary proceedings when they are necessary for the~~
18 ~~protection of the public health))~~ public expects greater accountability
19 of the members of the medical profession to whom they entrust their
20 care when they are most vulnerable; and

21 (6) Because experience around the country has found that an
22 independent medical board, with control over its own budget and staff,
23 is the most effective and safe way of licensing and disciplining
24 medical professionals, and ensuring delivery of the highest quality
25 medical care possible.

26 **Establishing the Medical Board for Safety and Quality**

27 **Sec. 103.** RCW 18.71.010 and 1994 sp.s. c 9 s 302 are each amended
28 to read as follows:

29 The following terms used in this chapter shall have the meanings
30 set forth in this section unless the context clearly indicates
31 otherwise:

32 (1) ((~~"Commission"~~)) "Board" means the Washington state medical
33 ((~~quality assurance commission~~)) board for safety and quality.

34 (2) ((~~"Secretary" means the secretary of health.~~

35 ~~(3))~~ "Resident physician" means an individual who has graduated
36 from a school of medicine which meets the requirements set forth in RCW

1 18.71.055 and is serving a period of postgraduate clinical medical
2 training sponsored by a college or university in this state or by a
3 hospital accredited by this state. For purposes of this chapter, the
4 term shall include individuals designated as intern or medical fellow.
5 ~~((4))~~ (3) "Emergency medical care" or "emergency medical service"
6 has the same meaning as in chapter 18.73 RCW.

7 **Sec. 104.** RCW 18.71.015 and 2006 c 8 s 103 are each amended to
8 read as follows:

9 The Washington state medical ~~((quality assurance commission))~~ board
10 for safety and quality is established, consisting of thirteen
11 individuals licensed to practice medicine in the state of Washington
12 under this chapter, two individuals who are licensed as physician
13 assistants under chapter 18.71A RCW, and six individuals who are
14 members of the public. At least two of the public members shall not be
15 from the health care industry. Each congressional district now
16 existing or hereafter created in the state must be represented by at
17 least one physician member of the ~~((commission))~~ board. The terms of
18 office of members of the ~~((commission))~~ board are not affected by
19 changes in congressional district boundaries. Public members of the
20 ~~((commission))~~ board may not be a member of any other health care
21 licensing board or commission, or have a fiduciary obligation to a
22 facility rendering health services regulated by the ~~((commission))~~
23 board, or have a material or financial interest in the rendering of
24 health services regulated by the ~~((commission))~~ board.

25 The members of the ~~((commission))~~ board shall be appointed by the
26 governor. Members of the initial ~~((commission))~~ board may be appointed
27 to staggered terms of one to four years, and thereafter all terms of
28 appointment shall be for four years. The governor shall consider such
29 physician and physician assistant members who are recommended for
30 appointment by the appropriate professional associations in the state.
31 In appointing the initial members of the ~~((commission))~~ board, it is
32 the intent of the legislature that, to the extent possible, the
33 existing members of the ~~((board of medical examiners and medical~~
34 ~~disciplinary board repealed under section 336, chapter 9, Laws of 1994~~
35 ~~sp. sess.))~~ medical quality assurance commission be appointed to the
36 ~~((commission))~~ board. No member may serve more than two consecutive

1 full terms. Each member shall hold office until a successor is
2 appointed.

3 Each member of the ((~~commission~~)) board must be a citizen of the
4 United States, must be an actual resident of this state, and, if a
5 physician, must have been licensed to practice medicine in this state
6 for at least five years.

7 The ((~~commission~~)) board shall meet as soon as practicable after
8 appointment and elect officers each year. Meetings shall be held at
9 least four times a year and at such place as the ((~~commission~~)) board
10 determines and at such other times and places as the ((~~commission~~))
11 board deems necessary. A majority of the ((~~commission~~)) board members
12 appointed and serving constitutes a quorum for the transaction of
13 ((~~commission~~)) board business.

14 The affirmative vote of a majority of a quorum of the
15 ((~~commission~~)) board is required to carry any motion or resolution, to
16 adopt any rule, or to pass any measure. The ((~~commission~~)) board may
17 appoint panels consisting of at least three members. A quorum for the
18 transaction of any business by a panel is a minimum of three members.
19 A majority vote of a quorum of the panel is required to transact
20 business delegated to it by the ((~~commission~~)) board.

21 Each member of the ((~~commission~~)) board shall be compensated in
22 accordance with RCW 43.03.265 and in addition thereto shall be
23 reimbursed for travel expenses incurred in carrying out the duties of
24 the ((~~commission~~)) board in accordance with RCW 43.03.050 and
25 43.03.060. Any such expenses shall be paid from funds ((~~appropriated~~
26 ~~to the department of health~~)) in the medical professions account.

27 Whenever the governor is satisfied that a member of ((~~a~~
28 ~~commission~~)) the board has been guilty of neglect of duty, misconduct,
29 or malfeasance or misfeasance in office, the governor shall file with
30 the secretary of state a statement of the causes for and the order of
31 removal from office, and the secretary shall forthwith send a certified
32 copy of the statement of causes and order of removal to the last known
33 post office address of the member.

34 Vacancies in the membership of the ((~~commission~~)) board shall be
35 filled for the unexpired term by appointment by the governor.

36 The members of the ((~~commission~~)) board are immune from suit in an
37 action, civil or criminal, based on its disciplinary proceedings or

1 other official acts performed in good faith as members of the
2 ((~~commission~~)) board.

3 Members of the board prevailing upon the good faith defense
4 provided for in this section are entitled to recover expenses and
5 reasonable attorneys' fees incurred in establishing the defense.

6 Whenever the workload of the ((~~commission~~)) board requires, the
7 ((~~commission~~)) board may request that the ((~~secretary~~)) governor
8 appoint pro tempore members of the ((~~commission~~)) board. When serving,
9 pro tempore members of the ((~~commission~~)) board have all of the powers,
10 duties, and immunities, and are entitled to all of the emoluments,
11 including travel expenses, of regularly appointed members of the
12 ((~~commission~~)) board.

13 **Rules, Policies, and Duties**

14 **Sec. 105.** RCW 18.71.017 and 2000 c 171 s 23 are each amended to
15 read as follows:

16 (1) The ((~~commission~~)) board may adopt such rules and guidelines as
17 are not inconsistent with the laws of this state as may be determined
18 necessary or proper to carry out the purposes of this chapter. The
19 ((~~commission~~)) board is the successor in interest of the ((~~board of~~
20 ~~medical examiners and the medical disciplinary board~~)) medical quality
21 assurance commission. All contracts, undertakings, agreements, rules,
22 regulations, and policies continue in full force and effect on ((~~July~~
23 ~~1, 1994~~)) the effective date of this section, unless otherwise repealed
24 or rejected by this chapter or by the ((~~commission~~)) board.

25 (2) The board may adopt rules governing the administration of
26 sedation and anesthesia in the offices of persons licensed under this
27 chapter, including necessary training and equipment.

28 (3) The board shall adopt sanctioning guidelines.

29 (4) The board shall adopt policies or programs on the following:

30 (a) Public education regarding filing of complaints;

31 (b) Compliance program to ensure license holders who have been
32 disciplined comply with the terms of their sanctions;

33 (c) Oversight program to ensure that the credentialing and the
34 regulatory processes are performing as intended;

35 (d) Annual review process of the board's information system to

1 ensure that it effectively and efficiently assists in the areas of
2 licensure, consumer complaints, and disciplinary action and monitoring;
3 and

4 (e) A disaster recovery and business continuity plan.

5 **Sec. 106.** RCW 18.71.017 and 2007 c 273 s 26 are each amended to
6 read as follows:

7 (1) The ~~((commission))~~ board may adopt such rules and guidelines as
8 are not inconsistent with the laws of this state as may be determined
9 necessary or proper to carry out the purposes of this chapter. The
10 ~~((commission))~~ board is the successor in interest of the ~~((board of~~
11 ~~medical examiners and the medical disciplinary board))~~ medical quality
12 assurance commission. All contracts, undertakings, agreements, rules,
13 regulations, and policies continue in full force and effect on ~~((July~~
14 ~~1, 1994))~~ the effective date of this section, unless otherwise repealed
15 or rejected by this chapter or by the ~~((commission))~~ board.

16 (2) The ~~((commission))~~ board may adopt rules governing the
17 administration of sedation and anesthesia in the offices of persons
18 licensed under this chapter, including necessary training and
19 equipment.

20 (3) The board shall adopt sanctioning guidelines.

21 (4) The board shall adopt policies or programs on the following:

22 (a) Public education regarding filing of complaints;

23 (b) Compliance program to ensure license holders who have been
24 disciplined comply with the terms of their sanctions;

25 (c) Oversight program to ensure that the credentialing and the
26 regulatory processes are performing as intended;

27 (d) Annual review process of the board's information system to
28 ensure that it effectively and efficiently assists in the areas of
29 licensure, consumer complaints, and disciplinary action and monitoring;
30 and

31 (e) A disaster recovery and business continuity plan.

32 **Medical Disciplinary Act**

33 **Sec. 107.** RCW 18.71.019 and 1996 c 195 s 1 are each amended to
34 read as follows:

35 The ~~((Uniform))~~ medical disciplinary act, chapter ~~((18.130 RCW))~~

1 18.-- RCW (sections 201 through 246 of this act), governs unlicensed
2 practice and the issuance and denial of licenses and discipline of
3 licensees under this chapter. ((When a panel of the commission revokes
4 a license, the respondent may request review of the revocation order of
5 the panel by the remaining members of the commission not involved in
6 the initial investigation. The respondent's request for review must be
7 filed within twenty days of the effective date of the order revoking
8 the respondent's license. The review shall be scheduled for hearing by
9 the remaining members of the commission not involved in the initial
10 investigation within sixty days. The commission shall adopt rules
11 establishing review procedures.))

12 **Executive Director Appointment, Compensation, and Duties**

13 **Sec. 108.** RCW 18.71.0191 and 1994 sp.s. c 9 s 326 are each amended
14 to read as follows:

15 (1) The ((secretary of the department of health)) governor shall
16 appoint, from a list of three names supplied by the ((commission))
17 board, an executive director who shall act to carry out the provisions
18 of this chapter. The board may list the names in order of board
19 preference. The ((secretary)) executive director may be removed by
20 either the governor or the board.

21 (2) The compensation of the executive director shall be set by the
22 board. The executive director is exempt from the provisions of the
23 civil service law, chapter 41.06 RCW, as now or hereafter amended.

24 (3) The executive director at the direction of the board shall
25 ((also employ such additional staff)):

26 (a) Employ, evaluate, dismiss, discipline, and direct all
27 professional, clerical, technical, investigative and administrative
28 personnel necessary to carry on the work of the board, including
29 ((administrative assistants,)) attorneys and investigators((, and
30 clerical staff as are required to enable the commission to accomplish
31 its duties and responsibilities. The executive director is exempt from
32 the provisions of the civil service law, chapter 41.06 RCW, as now or
33 hereafter amended));

34 (b) Prepare the annual budget for approval by the board;

35 (c) Appoint and employ medical consultants and agents necessary to

1 conduct investigations, gather information, and perform those duties
2 the executive director determines are necessary and appropriate to
3 enforce this chapter;

4 (d) Manage the board's offices;

5 (e) Authorize expenditures from the medical professions account;

6 (f) Perform any and all other duties assigned to the executive
7 director by the board.

8 **Disciplinary Reports and Exemptions**

9 **Sec. 109.** RCW 18.71.0195 and 2005 c 274 s 227 are each amended to
10 read as follows:

11 (1) The contents of any report filed under ((RCW 18.130.070))
12 section 209 of this act shall be confidential and exempt from public
13 disclosure pursuant to chapter 42.56 RCW, except that it may be
14 reviewed (a) by the licensee involved or his or her counsel or
15 authorized representative who may submit any additional exculpatory or
16 explanatory statements or other information, which statements or other
17 information shall be included in the file, or (b) by a representative
18 of the ((~~commission~~)) board, or investigator thereof, who has been
19 assigned to review the activities of a licensed physician.

20 Upon a determination that a report is without merit, the
21 ((~~commission's~~)) board's records may be purged of information relating
22 to the report.

23 (2) Every individual, medical association, medical society,
24 hospital, ((~~medical service bureau~~)) health service contractor, health
25 insurance carrier or agent, professional liability insurance carrier,
26 professional standards review organization, agency of the federal,
27 state, or local government, or the entity established by RCW 18.71.300
28 and its officers, agents, and employees are immune from civil
29 liability, whether direct or derivative, for providing information to
30 the ((~~commission~~)) board under ((RCW 18.130.070)) section 209 of this
31 act, or for which an individual health care provider has immunity under
32 the provisions of RCW 4.24.240, 4.24.250, or 4.24.260.

33 **Sec. 110.** RCW 18.71.0195 and 2007 c 273 s 24 are each amended to
34 read as follows:

35 (1) The contents of any report filed under ((RCW 18.130.070))

1 section 209 of this act shall be confidential and exempt from public
2 disclosure pursuant to chapter 42.56 RCW, except that it may be
3 reviewed (a) by the licensee involved or his or her counsel or
4 authorized representative who may submit any additional exculpatory or
5 explanatory statements or other information, which statements or other
6 information shall be included in the file, or (b) by a representative
7 of the (~~commission~~) board, or investigator thereof, who has been
8 assigned to review the activities of a licensed physician.

9 Upon a determination that a report is without merit, the
10 (~~commission's~~) board's records may be purged of information relating
11 to the report.

12 (2) Every individual, medical association, medical society,
13 hospital, ambulatory surgical facility, (~~medical service bureau~~)
14 health service contractor, health insurance carrier or agent,
15 professional liability insurance carrier, professional standards review
16 organization, agency of the federal, state, or local government, or the
17 entity established by RCW 18.71.300 and its officers, agents, and
18 employees are immune from civil liability, whether direct or
19 derivative, for providing information to the (~~commission~~) board under
20 (~~RCW 18.130.070~~) section 209 of this act, or for which an individual
21 health care provider has immunity under the provisions of RCW 4.24.240,
22 4.24.250, or 4.24.260.

23 **Sec. 111.** RCW 18.71.030 and 1996 c 178 s 4 are each amended to
24 read as follows:

25 Nothing in this chapter shall be construed to apply to or interfere
26 in any way with the practice of religion or any kind of treatment by
27 prayer; nor shall anything in this chapter be construed to prohibit:

28 (1) The furnishing of medical assistance in cases of emergency
29 requiring immediate attention;

30 (2) The domestic administration of family remedies;

31 (3) The administration of oral medication of any nature to students
32 by public school district employees or private elementary or secondary
33 school employees as provided for in chapter 28A.210 RCW;

34 (4) The practice of dentistry, osteopathic medicine and surgery,
35 nursing, chiropractic, podiatric medicine and surgery, optometry,
36 naturopathy, or any other healing art licensed under the methods or
37 means permitted by such license;

1 (5) The practice of medicine in this state by any commissioned
2 medical officer serving in the armed forces of the United States or
3 public health service or any medical officer on duty with the United
4 States veterans administration while such medical officer is engaged in
5 the performance of the duties prescribed for him or her by the laws and
6 regulations of the United States;

7 (6) The practice of medicine by any practitioner licensed by
8 another state or territory in which he or she resides, provided that
9 such practitioner shall not open an office or appoint a place of
10 meeting patients or receiving calls within this state;

11 (7) The practice of medicine by a person who is a regular student
12 in a school of medicine approved and accredited by the ((~~commission~~))
13 board, however, the performance of such services be only pursuant to a
14 regular course of instruction or assignments from his or her
15 instructor, or that such services are performed only under the
16 supervision and control of a person licensed pursuant to this chapter;

17 (8) The practice of medicine by a person serving a period of
18 postgraduate medical training in a program of clinical medical training
19 sponsored by a college or university in this state or by a hospital
20 accredited in this state, however, the performance of such services
21 shall be only pursuant to his or her duties as a trainee;

22 (9) The practice of medicine by a person who is regularly enrolled
23 in a physician assistant program approved by the ((~~commission~~)) board,
24 however, the performance of such services shall be only pursuant to a
25 regular course of instruction in said program and such services are
26 performed only under the supervision and control of a person licensed
27 pursuant to this chapter;

28 (10) The practice of medicine by a licensed physician assistant
29 which practice is performed under the supervision and control of a
30 physician licensed pursuant to this chapter;

31 (11) The practice of medicine, in any part of this state which
32 shares a common border with Canada and which is surrounded on three
33 sides by water, by a physician licensed to practice medicine and
34 surgery in Canada or any province or territory thereof;

35 (12) The administration of nondental anesthesia by a dentist who
36 has completed a residency in anesthesiology at a school of medicine
37 approved by the ((~~commission~~)) board, however, a dentist allowed to
38 administer nondental anesthesia shall do so only under authorization of

1 the patient's attending surgeon, obstetrician, or psychiatrist, and the
2 (~~commission~~) board has jurisdiction to discipline a dentist
3 practicing under this exemption and enjoin or suspend such dentist from
4 the practice of nondental anesthesia according to this chapter and
5 chapter (~~18.130 RCW~~) 18.-- RCW (sections 201 through 246 of this
6 act);

7 (13) Emergency lifesaving service rendered by a physician's trained
8 emergency medical service intermediate life support technician and
9 paramedic, as defined in RCW 18.71.200, if the emergency lifesaving
10 service is rendered under the responsible supervision and control of a
11 licensed physician;

12 (14) The provision of clean, intermittent bladder catheterization
13 for students by public school district employees or private school
14 employees as provided for in RCW 18.79.290 and 28A.210.280.

15 **Licensing and Disciplinary Costs and Fees**

16 **Sec. 112.** RCW 18.71.040 and 2003 c 275 s 1 are each amended to
17 read as follows:

18 The physicians and physician assistants of the state of Washington
19 are responsible for all costs associated with the licensing,
20 regulation, and discipline, pursuant to the medical disciplinary act,
21 chapter 18.-- RCW (sections 201 through 246 of this act), of the
22 medical profession. Every applicant for a license to practice medicine
23 and surgery shall pay a fee determined by the (~~secretary as provided~~
24 ~~in RCW 43.70.250~~) board to cover such costs. The board shall from
25 time to time establish the amount of all application fees, license
26 fees, registration fees, examination fees, permit fees, renewal fees,
27 and any other fees associated with the licensing, regulation, or
28 discipline of the profession. In fixing the fees, the board shall set
29 the fees at a sufficient level to defray the costs of administering the
30 board pursuant to this act and the board's obligations pursuant to the
31 medical disciplinary act. All such fees shall be fixed by rule adopted
32 by the board in accordance with the provisions of the administrative
33 procedure act, chapter 34.05 RCW.

34 **Licensure Application**

1 **Sec. 113.** RCW 18.71.050 and 1994 sp.s. c 9 s 307 are each amended
2 to read as follows:

3 (1) Each applicant who has graduated from a school of medicine
4 located in any state, territory, or possession of the United States,
5 the District of Columbia, or the Dominion of Canada, shall file an
6 application for licensure with the ~~((commission))~~ board on a form
7 prepared and approved by the ~~((secretary with the approval of the~~
8 ~~commission))~~ board. Each applicant shall furnish proof satisfactory to
9 the ~~((commission))~~ board of the following:

10 (a) That the applicant has attended and graduated from a school of
11 medicine approved by the ~~((commission))~~ board;

12 (b) That the applicant has completed ~~((two))~~ three years of
13 postgraduate medical training in a program acceptable to the
14 ~~((commission))~~ board, provided that applicants graduating before July
15 28, 1985, may complete only one year of postgraduate medical training;

16 (c) That the applicant is of good moral character; and

17 (d) That the applicant is physically and mentally capable of safely
18 carrying on the practice of medicine. The ~~((commission))~~ board may
19 require any applicant to submit to such examination or examinations as
20 it deems necessary to determine an applicant's physical and/or mental
21 capability to safely and competently practice medicine. The costs of
22 such examination or examinations shall be paid by the applicant.

23 (2) Nothing in this section shall be construed as prohibiting the
24 ~~((commission))~~ board from requiring such additional information from
25 applicants as it deems necessary. The issuance and denial of licenses
26 are subject to chapter ~~((18.130 RCW))~~ 18.-- RCW (sections 201 through
27 246 of this act), the ~~((Uniform))~~ medical disciplinary act.

28 **Sec. 114.** RCW 18.71.051 and 1994 sp.s. c 9 s 308 are each amended
29 to read as follows:

30 Applicants for licensure to practice medicine who have graduated
31 from a school of medicine located outside of the states, territories,
32 and possessions of the United States, the District of Columbia, or the
33 Dominion of Canada, shall file an application for licensure with the
34 ~~((commission))~~ board on a form prepared and approved by the ~~((secretary~~
35 ~~with the approval of the commission))~~ board. Each applicant shall
36 furnish proof satisfactory to the ~~((commission))~~ board of the
37 following:

1 (1) That he or she has completed in a school of medicine a resident
2 course of professional instruction equivalent to that required in this
3 chapter for applicants generally;

4 (2) That he or she meets all the requirements, including but not
5 limited to RCW 18.71.050(1) (a) through (c) which must be met by
6 graduates of the United States and Canadian school of medicine except
7 that he or she need not have graduated from a school of medicine
8 approved by the ((~~commission~~)) board;

9 (3) That he or she has satisfactorily passed the examination given
10 by the educational council for foreign medical graduates or has met the
11 requirements in lieu thereof as set forth in rules adopted by the
12 ((~~commission~~)) board;

13 (4) That he or she has the ability to read, write, speak,
14 understand, and be understood in the English language.

15 **Sec. 115.** RCW 18.71.055 and 1996 c 178 s 5 are each amended to
16 read as follows:

17 The ((~~commission~~)) board may approve any school of medicine which
18 is located in any state, territory, or possession of the United States,
19 the District of Columbia, or in the Dominion of Canada, provided that
20 it:

21 (1) Requires collegiate instruction, which includes courses deemed
22 by the ((~~commission~~)) board to be prerequisites to medical education;

23 (2) Provides adequate instruction in the following subjects:
24 Anatomy, biochemistry, microbiology and immunology, pathology,
25 pharmacology, physiology, anaesthesiology, dermatology, gynecology,
26 internal medicine, neurology, obstetrics, ophthalmology, orthopedic
27 surgery, otolaryngology, pediatrics, physical medicine and
28 rehabilitation, preventive medicine and public health, psychiatry,
29 radiology, surgery, and urology, and such other subjects determined by
30 the ((~~commission~~)) board;

31 (3) Provides clinical instruction in hospital wards and out-patient
32 clinics under guidance.

33 Approval may be withdrawn by the ((~~commission~~)) board at any time
34 a medical school ceases to comply with one or more of the requirements
35 of this section.

36 (4) Nothing in this section shall be construed to authorize the
37 ((~~commission~~)) board to approve a school of osteopathic medicine and

1 surgery, or osteopathic medicine, for purposes of qualifying an
2 applicant to be licensed under this chapter by direct licensure,
3 reciprocity, or otherwise.

4 **Sec. 116.** RCW 18.71.060 and 1994 sp.s. c 9 s 310 are each amended
5 to read as follows:

6 The ((~~commission~~)) board shall keep an official record of all its
7 proceedings, a part of which record shall consist of a register of all
8 applicants for licensure under this chapter, with the result of each
9 application. The record shall be evidence of all the proceedings of
10 the ((~~commission~~)) board that are set forth in it.

11 **Sec. 117.** RCW 18.71.070 and 1994 sp.s. c 9 s 311 are each amended
12 to read as follows:

13 With the exception of those applicants granted licensure through
14 the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure
15 must successfully complete an examination either administered or
16 approved by the ((~~commission~~)) board to determine their professional
17 qualifications. The ((~~commission~~)) board shall prepare and give, or
18 approve the preparation and giving of, an examination which shall cover
19 those general subjects and topics, a knowledge of which is commonly and
20 generally required of candidates for the degree of doctor of medicine
21 conferred by approved colleges or schools of medicine in the United
22 States. Notwithstanding any other provision of law, the ((~~commission~~))
23 board has the sole responsibility for determining the proficiency of
24 applicants under this chapter, and, in so doing, may waive any
25 prerequisite to licensure not set forth in this chapter.

26 The ((~~commission~~)) board may by rule establish the passing grade
27 for the examination.

28 Examination results shall be part of the records of the
29 ((~~commission~~)) board and shall be permanently kept with the applicant's
30 file.

31 **Sec. 118.** RCW 18.71.080 and 1996 c 191 s 52 are each amended to
32 read as follows:

33 (1) Every person licensed to practice medicine in this state shall
34 pay licensing fees established by the board under RCW 18.71.040 and

1 renew his or her license in accordance with (~~administrative~~) the
2 procedures and (~~administrative~~) requirements adopted (~~as provided in~~
3 RCW 43.70.250 and 43.70.280) by the board.

4 (2) The board shall establish by rule the procedures, requirements,
5 and fees for initial issue, renewal, and reissue of a license to
6 practice medicine under this chapter, including procedures and
7 requirements for late renewals and uniform application of late renewal
8 penalties. Failure to renew invalidates the license and all privileges
9 granted by the license.

10 (3) The board may, from time to time, extend or otherwise modify
11 the duration of the licensing period, whether an initial or renewal
12 period, if the board determines that it would result in a more
13 economical or efficient operation of state government and that the
14 public health, safety, or welfare would not be substantially adversely
15 affected thereby. However, no license may be issued or approved for a
16 period in excess of four years, without renewal. Such extension,
17 reduction, or other modification of a licensing period shall be by rule
18 of the board adopted in accordance with the provisions of chapter 34.05
19 RCW. Such rules may provide a method for imposing and collecting such
20 additional proportional fee as may be required for the extended or
21 modified period.

22 (4) The (~~commission~~) board may establish rules governing
23 mandatory continuing education requirements, which shall be met by
24 physicians applying for renewal of licenses. The rules shall provide
25 that mandatory continuing education requirements may be met in part by
26 physicians showing evidence of the completion of approved activities
27 relating to professional liability risk management. The (~~commission~~)
28 board, in its sole discretion, may permit an applicant who has not
29 renewed his or her license to be licensed without examination if it is
30 satisfied that such applicant meets all the requirements for licensure
31 in this state, and is competent to engage in the practice of medicine.

32 **Sec. 119.** RCW 18.71.085 and 1996 c 191 s 53 are each amended to
33 read as follows:

34 The (~~commission~~) board may adopt rules pursuant to this section
35 authorizing an inactive license status.

36 (1) An individual licensed pursuant to this chapter (~~(18.71-RCW)~~)

1 may place his or her license on inactive status. The holder of an
2 inactive license shall not practice medicine and surgery in this state
3 without first activating the license.

4 (2) The ~~((administrative))~~ procedures, ~~((administrative))~~
5 requirements, and fees for inactive renewal shall be established
6 pursuant to RCW ~~((43.70.250 and 43.70.280))~~ 18.71.040 and 18.71.080.

7 (3) An inactive license may be placed in an active status upon
8 compliance with rules established by the ~~((commission))~~ board.

9 (4) Provisions relating to disciplinary action against a person
10 with a license shall be applicable to a person with an inactive
11 license, except that when disciplinary proceedings against a person
12 with an inactive license have been initiated, the license shall remain
13 inactive until the proceedings have been completed.

14 **Sec. 120.** RCW 18.71.090 and 1994 sp.s. c 9 s 314 are each amended
15 to read as follows:

16 Any applicant who meets the requirements of RCW 18.71.050 and has
17 been licensed under the laws of another state, territory, or possession
18 of the United States, or of any province of Canada, or an applicant who
19 has satisfactorily passed examinations given by the national board of
20 medical examiners may, in the discretion of the ~~((commission))~~ board,
21 be granted a license without examination on the payment of the fees
22 required by this chapter: PROVIDED, That the applicant must file with
23 the ~~((commission))~~ board a copy of the license certified by the proper
24 authorities of the issuing state to be a full, true copy thereof, and
25 must show that the standards, eligibility requirements, and
26 examinations of that state are at least equal in all respects to those
27 of this state.

28 **Sec. 121.** RCW 18.71.095 and 2001 c 114 s 1 are each amended to
29 read as follows:

30 The ~~((commission))~~ board may, without examination, issue a limited
31 license to persons who possess the qualifications set forth herein:

32 (1) The ~~((commission))~~ board may, upon the written request of the
33 secretary of the department of social and health services or the
34 secretary of corrections, issue a limited license to practice medicine
35 in this state to persons who have been accepted for employment by the
36 department of social and health services or the department of

1 corrections as physicians; who are licensed to practice medicine in
2 another state of the United States or in the country of Canada or any
3 province or territory thereof; and who meet all of the qualifications
4 for licensure set forth in RCW 18.71.050.

5 Such license shall permit the holder thereof to practice medicine
6 only in connection with patients, residents, or inmates of the state
7 institutions under the control and supervision of the secretary of the
8 department of social and health services or the department of
9 corrections.

10 (2) The (~~commission~~) board may issue a limited license to
11 practice medicine in this state to persons who have been accepted for
12 employment by a county or city health department as physicians; who are
13 licensed to practice medicine in another state of the United States or
14 in the country of Canada or any province or territory thereof; and who
15 meet all of the qualifications for licensure set forth in RCW
16 18.71.050.

17 Such license shall permit the holder thereof to practice medicine
18 only in connection with his or her duties in employment with the city
19 or county health department.

20 (3) Upon receipt of a completed application showing that the
21 applicant meets all of the requirements for licensure set forth in RCW
22 18.71.050 except for completion of (~~two~~) three years of postgraduate
23 medical training, and that the applicant has been appointed as a
24 resident physician in a program of postgraduate clinical training in
25 this state approved by the (~~commission~~) board, the (~~commission~~)
26 board may issue a limited license to a resident physician. Such
27 license shall permit the resident physician to practice medicine only
28 in connection with his or her duties as a resident physician and shall
29 not authorize the physician to engage in any other form of practice.
30 Each resident physician shall practice medicine only under the
31 supervision and control of a physician licensed in this state, but such
32 supervision and control shall not be construed to necessarily require
33 the personal presence of the supervising physician at the place where
34 services are rendered.

35 (4)(a) Upon nomination by the dean of the school of medicine at the
36 University of Washington or the chief executive officer of a hospital
37 or other appropriate health care facility licensed in the state of
38 Washington, the (~~commission~~) board may issue a limited license to a

1 physician applicant invited to serve as a teaching-research member of
2 the institution's instructional staff if the sponsoring institution and
3 the applicant give evidence that he or she has graduated from a
4 recognized medical school and has been licensed or otherwise privileged
5 to practice medicine at his or her location of origin. Such license
6 shall permit the recipient to practice medicine only within the
7 confines of the instructional program specified in the application and
8 shall terminate whenever the holder ceases to be involved in that
9 program, or at the end of one year, whichever is earlier. Upon request
10 of the applicant and the institutional authority, the license may be
11 renewed.

12 (b) Upon nomination by the dean of the school of medicine of the
13 University of Washington or the chief executive officer of any hospital
14 or appropriate health care facility licensed in the state of
15 Washington, the ((~~commission~~)) board may issue a limited license to an
16 applicant selected by the sponsoring institution to be enrolled in one
17 of its designated departmental or divisional fellowship programs
18 provided that the applicant shall have graduated from a recognized
19 medical school and has been granted a license or other appropriate
20 certificate to practice medicine in the location of the applicant's
21 origin. Such license shall permit the holder only to practice medicine
22 within the confines of the fellowship program to which he or she has
23 been appointed and, upon the request of the applicant and the
24 sponsoring institution, the license may be renewed by the
25 ((~~commission~~)) board for no more than a total of two years.

26 All persons licensed under this section shall be subject to the
27 jurisdiction of the ((~~commission~~)) board to the same extent as other
28 members of the medical profession, in accordance with this chapter and
29 chapter ((~~18.130 RCW~~)) 18.-- RCW (sections 201 through 246 of this
30 act).

31 Persons applying for licensure and renewing licenses pursuant to
32 this section shall comply with ((~~administrative~~)) procedures,
33 ((~~administrative~~)) requirements, and fees determined by the board as
34 provided in RCW ((~~43.70.250 and 43.70.280~~)) 18.71.040 and 18.71.080.
35 Any person who obtains a limited license pursuant to this section may
36 apply for licensure under this chapter, but shall submit a new
37 application form and comply with all other licensing requirements of
38 this chapter.

1 **Emergency Medical Personnel**

2 **Sec. 122.** RCW 18.71.205 and 1996 c 191 s 55 and 1996 c 178 s 6 are
3 each reenacted and amended to read as follows:

4 (1) The secretary of the department of health, in conjunction with
5 the advice and assistance of the emergency medical services licensing
6 and certification advisory committee as prescribed in RCW 18.73.050,
7 and the ((~~commission~~)) board, shall prescribe:

8 (a) Practice parameters, training standards for, and levels of,
9 physician trained emergency medical service intermediate life support
10 technicians and paramedics;

11 (b) Minimum standards and performance requirements for the
12 certification and recertification of physician's trained emergency
13 medical service intermediate life support technicians and paramedics;
14 and

15 (c) Procedures for certification, recertification, and
16 decertification of physician's trained emergency medical service
17 intermediate life support technicians and paramedics.

18 (2) Initial certification shall be for a period established by the
19 secretary pursuant to RCW 43.70.250 and 43.70.280.

20 (3) Recertification shall be granted upon proof of continuing
21 satisfactory performance and education, and shall be for a period
22 established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

23 (4) As used in this chapter((~~s 18.71~~)) and chapter 18.73 RCW,
24 "approved medical program director" means a person who:

25 (a) Is licensed to practice medicine and surgery pursuant to this
26 chapter ((~~18.71 RCW~~)) or osteopathic medicine and surgery pursuant to
27 chapter 18.57 RCW; and

28 (b) Is qualified and knowledgeable in the administration and
29 management of emergency care and services; and

30 (c) Is so certified by the department of health for a county, group
31 of counties, or cities with populations over four hundred thousand in
32 coordination with the recommendations of the local medical community
33 and local emergency medical services and trauma care council.

34 (5) The ((~~Uniform~~)) Medical Disciplinary Act, chapter ((~~18.130~~))
35 18.-- RCW (sections 201 through 246 of this act), governs uncertified
36 practice, the issuance and denial of certificates, and the disciplining
37 of certificate holders under this section. The ((~~secretary~~)) board
38 shall be the disciplining authority under this section. Disciplinary

1 action shall be initiated against a person credentialed under this
2 chapter in a manner consistent with the responsibilities and duties of
3 the medical program director under whom such person is responsible.

4 (6) Such activities of physician's trained emergency medical
5 service intermediate life support technicians and paramedics shall be
6 limited to actions taken under the express written or oral order of
7 medical program directors and shall not be construed at any time to
8 include free standing or nondirected actions, for actions not
9 presenting an emergency or life-threatening condition.

10 **Persons Exempt from Licensure**

11 **Sec. 123.** RCW 18.71.230 and 1994 sp.s. c 9 s 317 are each amended
12 to read as follows:

13 A right to practice medicine and surgery by an individual in this
14 state pursuant to RCW 18.71.030 (5) through (12) shall be subject to
15 discipline by order of the (~~commission~~) board upon a finding by the
16 (~~commission~~) board of an act of unprofessional conduct as defined in
17 (~~RCW 18.130.180~~) section 229 of this act or that the individual is
18 unable to practice with reasonable skill or safety due to a mental or
19 physical condition as described in (~~RCW 18.130.170~~) section 226 of
20 this act. Such physician shall have the same rights of notice,
21 hearing, and judicial review as provided licensed physicians generally
22 under this chapter and chapter (~~18.130-RCW~~) 18.-- RCW (sections 201
23 through 246 of this act).

24 **Impaired Physician Program**

25 **Sec. 124.** RCW 18.71.300 and 1998 c 132 s 3 are each amended to
26 read as follows:

27 The definitions in this section apply throughout RCW 18.71.310
28 through 18.71.340 unless the context clearly requires otherwise.

29 (1) "Entity" means a nonprofit corporation formed by physicians who
30 have expertise in the areas of alcohol abuse, drug abuse, alcoholism,
31 other drug addictions, and mental illness and who broadly represent the
32 physicians of the state and that has been designated to perform any or
33 all of the activities set forth in RCW 18.71.310(1) by the
34 (~~commission~~) board.

1 (2) "Impaired" or "impairment" means the inability to practice
2 medicine with reasonable skill and safety to patients by reason of
3 physical or mental illness including alcohol abuse, drug abuse,
4 alcoholism, other drug addictions, or other debilitating conditions.

5 (3) "Impaired physician program" means the program for the
6 prevention, detection, intervention, monitoring, and treatment of
7 impaired physicians established by the ((~~commission~~)) board pursuant to
8 RCW 18.71.310(1).

9 (4) "Physician" or "practitioner" means a person licensed under
10 this chapter, chapter 18.71A RCW, or a professional licensed under
11 another chapter of Title 18 RCW whose disciplining authority has a
12 contract with the entity for an impaired practitioner program for its
13 license holders.

14 (5) "Treatment program" means a plan of care and rehabilitation
15 services provided by those organizations or persons authorized to
16 provide such services to be approved by the ((~~commission~~)) board or
17 entity for impaired physicians taking part in the impaired physician
18 program created by RCW 18.71.310.

19 **Sec. 125.** RCW 18.71.310 and 2001 c 109 s 1 are each amended to
20 read as follows:

21 (1) The ((~~commission~~)) board shall enter into a contract with the
22 entity to implement an impaired physician program. The ((~~commission~~))
23 board may enter into a contract with the entity for up to six years in
24 length. The impaired physician program may include any or all of the
25 following:

26 (a) Entering into relationships supportive of the impaired
27 physician program with professionals who provide either evaluation or
28 treatment services, or both;

29 (b) Receiving and assessing reports of suspected impairment from
30 any source;

31 (c) Intervening in cases of verified impairment, or in cases where
32 there is reasonable cause to suspect impairment;

33 (d) Upon reasonable cause, referring suspected or verified impaired
34 physicians for evaluation or treatment;

35 (e) Monitoring the treatment and rehabilitation of impaired
36 physicians including those ordered by the ((~~commission~~)) board;

1 (f) Providing monitoring and continuing treatment and
2 rehabilitative support of physicians;

3 (g) Performing such other activities as agreed upon by the
4 (~~commission~~) board and the entity; and

5 (h) Providing prevention and education services.

6 (2) A contract entered into under subsection (1) of this section
7 shall be financed by a surcharge of not less than twenty-five and not
8 more than thirty-five dollars per year on each license renewal or
9 issuance of a new license to be collected by the department of health
10 from every physician and surgeon licensed under this chapter in
11 addition to other license fees. These moneys shall be placed in the
12 impaired physician account to be used solely for the implementation of
13 the impaired physician program.

14 **Sec. 126.** RCW 18.71.315 and 1998 c 132 s 12 are each amended to
15 read as follows:

16 The impaired physician account is created in the custody of the
17 state treasurer. All receipts from RCW 18.71.310 from license
18 surcharges on physicians and physician assistants shall be deposited
19 into the account. Expenditures from the account may only be used for
20 the impaired physician program under this chapter. Only the
21 (~~secretary of health or the secretary's designee~~) board or its
22 executive director may authorize expenditures from the account. No
23 appropriation is required for expenditures from this account.

24 **Sec. 127.** RCW 18.71.320 and 1998 c 132 s 5 are each amended to
25 read as follows:

26 The entity shall develop procedures in consultation with the
27 (~~commission~~) board for:

28 (1) Periodic reporting of statistical information regarding
29 impaired physician activity;

30 (2) Periodic disclosure and joint review of such information as the
31 (~~commission~~) board may deem appropriate regarding reports received,
32 contacts or investigations made, and the disposition of each report.
33 However, the entity shall not disclose any personally identifiable
34 information except as provided in subsections (3) and (4) of this
35 section;

1 (3) Immediate reporting to the ((~~commission~~)) board of the name and
2 results of any contact or investigation regarding any suspected or
3 verified impaired physician who is reasonably believed probably to
4 constitute an imminent danger to himself or herself or to the public;

5 (4) Reporting to the ((~~commission~~)) board, in a timely fashion, any
6 suspected or verified impaired physician who fails to cooperate with
7 the entity, fails to submit to evaluation or treatment, or whose
8 impairment is not substantially alleviated through treatment, or who,
9 in the opinion of the entity, is probably unable to practice medicine
10 with reasonable skill and safety;

11 (5) Informing each participant of the impaired physician program of
12 the program procedures, the responsibilities of program participants,
13 and the possible consequences of noncompliance with the program.

14 **Sec. 128.** RCW 18.71.330 and 1998 c 132 s 6 are each amended to
15 read as follows:

16 If the ((~~commission~~)) board has reasonable cause to believe that a
17 physician is impaired, the ((~~commission~~)) board shall cause an
18 evaluation of such physician to be conducted by the entity or the
19 entity's designee or the ((~~commission's~~)) board's designee for the
20 purpose of determining if there is an impairment. The entity or
21 appropriate designee shall report the findings of its evaluation to the
22 ((~~commission~~)) board.

23 **Malpractice Payment Reporting**

24 **Sec. 129.** RCW 18.71.350 and 1994 sp.s. c 9 s 333 are each amended
25 to read as follows:

26 (1) Every institution or organization providing professional
27 liability insurance to physicians shall send a complete report to the
28 ((~~commission~~)) board of all malpractice settlements, awards, or
29 payments in excess of twenty thousand dollars as a result of a claim or
30 action for damages alleged to have been caused by an insured
31 physician's incompetency or negligence in the practice of medicine.
32 Such institution or organization shall also report the award,
33 settlement, or payment of three or more claims during a five-year time
34 period as the result of the alleged physician's incompetence or

1 negligence in the practice of medicine regardless of the dollar amount
2 of the award or payment.

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

7 **Medical Professions Account**

8 NEW SECTION. **Sec. 130.** (1) There is created in the state treasury
9 an account to be known as the medical professions account. All fees or
10 other funds received by the board for licenses, registration,
11 certifications, renewals, or examinations and any civil penalties
12 assessed and collected by the board under chapter 18.-- RCW (sections
13 201 through 246 of this act) shall be forwarded to the state treasurer
14 who shall credit such moneys to the medical professions account. Any
15 residue in the medical professions account shall be accumulated and
16 shall not revert to the general fund at the end of the biennium. Any
17 interest accrued from surplus funds in the medical professions account
18 shall be deposited in the medical professions account and shall not
19 revert to the general fund at the end of the biennium.

20 (2) Expenditures from the medical professions account may be used
21 only for the exclusive purpose of carrying out the licensing,
22 disciplinary, and other functions of the board as set forth in chapters
23 18.71, 18.71A, and 18.-- (sections 201 through 246 of this act) RCW.
24 The account is subject to allotment procedures under chapter 43.88 RCW,
25 but no appropriation is required for expenditures from this account.

26 (3) Only the board or its executive director may authorize
27 expenditures from the medical professions account.

28 (4) All funds not appropriated but deposited in the medical
29 professions account from licensing fees and other funds collected from
30 physician and physician assistants prior to July 2007 shall be
31 transferred into the medical professions account by the state
32 treasurer.

33 **Annual Report to the Legislature**

1 NEW SECTION. **Sec. 131.** The board shall provide an annual report
2 of its activities to the legislature and shall make itself available to
3 answer questions of the legislature at such times as are mutually
4 convenient to both the board and the legislature.

5 **Creation of a Physician Education and Improvement Program**

6 NEW SECTION. **Sec. 132.** The definitions in this section apply
7 throughout sections 133 through 138 of this act unless the context
8 clearly requires otherwise.

9 (1) "Entity" means a nonprofit corporation formed by physicians who
10 have expertise in the areas of medical standards of care, ethical
11 conduct, and other professional standards, and who broadly represent
12 the physicians of the state of Washington, and has been designated to
13 perform any or all of the activities set forth in section 134 of this
14 act by the board.

15 (2) "Physician education and improvement program" means a quality
16 care improvement program that seeks to educate and improve physician
17 proficiency with regard to quality of care, professional standards,
18 ethical guidelines, and other practice standard issues established by
19 the board pursuant to section 134 of this act.

20 (3) "Physician" or "practitioner" means a person licensed under
21 this chapter or chapter 18.71A RCW.

22 NEW SECTION. **Sec. 133.** It is the purpose of the legislature to
23 improve patient safety and the quality of patient care through the
24 creation of an organization that will establish an education and
25 improvement program to assist physicians and physician assistants whose
26 care may be lacking in certain respects, but does not yet present an
27 immediate threat to the public and is not yet actionable under the
28 medical disciplinary act. The goal of the organization and its
29 education and improvement program are to help improve the care of
30 physicians and physician assistants, in a nonpunitive, confidential
31 environment, that will result in safer and higher quality care to the
32 citizens of this state.

33 NEW SECTION. **Sec. 134.** (1) The board may enter into a contract
34 with the entity to implement a physician education and improvement

1 program. The board may enter into a contract with the entity for up to
2 six years in length. The physician education and improvement program
3 may include any or all of the following:

4 (a) Entering into relationships supportive of the physician
5 education and improvement program with professionals who provide the
6 following services: Evaluation, education, or quality care
7 improvement;

8 (b) Receiving and assessing reports from any source raising issues
9 with a physician's or physician assistant's care or conduct that may
10 need improvement;

11 (c) Intervening in cases of questionable behavior or care, or in
12 cases where there is reasonable cause to suspect there is a quality of
13 care or behavior issue;

14 (d) Upon reasonable cause, referring physicians or physician
15 assistants for evaluation, education, or quality improvement;

16 (e) Monitoring the education and quality improvement of physicians
17 and physician assistants;

18 (f) Providing monitoring and continuing rehabilitative support of
19 physicians and physician assistants;

20 (g) Performing such other activities as agreed upon by the board
21 and the entity; and

22 (h) Providing prevention, education, and quality improvement
23 services.

24 (2) A contract entered into under subsection (1) of this section
25 shall be financed by funds in the medical professions account; or if
26 determined necessary by the board, a surcharge of not less than
27 twenty-five and not more than thirty-five dollars per year on each
28 license renewal or issuance of a new license to be collected by the
29 board from every physician and surgeon licensed under this chapter in
30 addition to other license fees. These moneys shall be placed in the
31 physician education and improvement account to be used solely for the
32 implementation of the physician education and improvement program.

33 NEW SECTION. **Sec. 135.** The physician education and improvement
34 account is created in the custody of the state treasurer. All receipts
35 from section 134 of this act from license surcharges on physicians and
36 physician assistants shall be deposited into the account. Expenditures
37 from the account may only be used for the physician education and

1 improvement program under sections 132 through 138 of this act. Only
2 the board or its executive director may authorize expenditures from the
3 account. No appropriation is required for expenditures from this
4 account.

5 NEW SECTION. **Sec. 136.** The entity shall develop procedures in
6 consultation with the board for:

7 (1) Periodic reporting of statistical information regarding
8 physician education and improvement program activity;

9 (2) Periodic disclosure and joint review of such information as the
10 board may deem appropriate regarding reports received, contacts or
11 investigations made, and the disposition of each report. However, the
12 entity shall not disclose any personally identifiable information
13 except as provided in subsections (3) and (4) of this section;

14 (3) Immediate reporting to the board of the name and results of any
15 contact or investigation regarding any physician who is reasonably
16 believed to constitute a danger to himself or herself or to the public;

17 (4) Reporting to the board, in a timely fashion, any physician who
18 elects not to cooperate with the entity, who elects not to submit to
19 evaluation or rehabilitation, whose problems are not substantially
20 alleviated through education or a quality improvement course, or who,
21 in the opinion of the entity, is unable to practice medicine with
22 reasonable skill and safety;

23 (5) Informing each participant of the physician education and
24 improvement program of the program procedures, the responsibilities of
25 program participants, and the possible consequences of noncompliance
26 with the program.

27 NEW SECTION. **Sec. 137.** (1) If the board has reasonable cause to
28 believe that a physician's practice is deficient in some capacity, but
29 the behavior is not egregious enough to constitute unprofessional
30 conduct under the medical disciplinary act, chapter 18.-- RCW (sections
31 201 through 246 of this act), the board may cause an evaluation of such
32 physician to be conducted by the entity or the entity's designee or the
33 board's designee for the purpose of determining if education is
34 appropriate for the physician. The entity or appropriate designee
35 shall report the findings of its evaluation to the board.

1 (2) The board shall establish by rule criteria for when a physician
2 or physician assistant may be required to participate in the physician
3 education and improvement program.

4 (3) Refusing to participate in the physician education and
5 improvement program or failure to complete the program is not by itself
6 sufficient grounds for discipline under chapter 18.-- RCW (sections 201
7 through 246 of this act).

8 NEW SECTION. **Sec. 138.** All entity records and all findings
9 pursuant to sections 133 through 137 of this act are not subject to
10 disclosure pursuant to chapter 42.56 RCW.

11 **Establishment of Annual Performance Measurement Goals**

12 NEW SECTION. **Sec. 139.** The governor or a designee of the governor
13 shall meet annually with the board, a representative of the board, or
14 its executive director, to establish performance measurement goals for
15 the upcoming year, evaluate the previous year's goals, and review the
16 rules, programs, and policies of the board as set forth in RCW
17 18.71.017, and any other matters of interest.

18 **Physician Assistants**

19 **Sec. 140.** RCW 18.71A.010 and 1994 sp.s. c 9 s 318 are each amended
20 to read as follows:

21 The definitions set forth in this section apply throughout this
22 chapter.

23 (1) "Physician assistant" means a person who is licensed by the
24 (~~commission~~) board to practice medicine to a limited extent only
25 under the supervision of a physician as defined in chapter 18.71 RCW
26 and who is academically and clinically prepared to provide health care
27 services and perform diagnostic, therapeutic, preventative, and health
28 maintenance services.

29 (2) (~~"Commission"~~) "Board" means the Washington state medical
30 (~~quality assurance commission~~) board for safety and quality.

31 (3) "Practice medicine" has the meaning defined in RCW 18.71.011.

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

1 ~~(5) "Department" means the department of health.)~~

2 **Sec. 141.** RCW 18.71A.020 and 1999 c 127 s 1 are each amended to
3 read as follows:

4 (1) The ~~((commission))~~ board shall adopt rules fixing the
5 qualifications and the educational and training requirements for
6 licensure as a physician assistant or for those enrolled in any
7 physician assistant training program. The requirements shall include
8 completion of an accredited physician assistant training program
9 approved by the ~~((commission))~~ board and within one year successfully
10 take and pass an examination approved by the ~~((commission))~~ board, if
11 the examination tests subjects substantially equivalent to the
12 curriculum of an accredited physician assistant training program. An
13 interim permit may be granted by the department of health for one year
14 provided the applicant meets all other requirements. Physician
15 assistants licensed by the board of medical examiners, ~~((or))~~ the
16 medical quality assurance commission, or the board as of ~~((July 1,~~
17 ~~1999,))~~ the effective date of this section shall continue to be
18 licensed.

19 (2)(a) The ~~((commission))~~ board shall adopt rules governing the
20 extent to which:

21 (i) Physician assistant students may practice medicine during
22 training; and

23 (ii) Physician assistants may practice after successful completion
24 of a physician assistant training course.

25 (b) Such rules shall provide:

26 (i) That the practice of a physician assistant shall be limited to
27 the performance of those services for which he or she is trained; and

28 (ii) That each physician assistant shall practice medicine only
29 under the supervision and control of a physician licensed in this
30 state, but such supervision and control shall not be construed to
31 necessarily require the personal presence of the supervising physician
32 or physicians at the place where services are rendered.

33 (3) Applicants for licensure shall file an application with the
34 ~~((commission))~~ board on a form prepared and approved by the ~~((secretary~~
35 ~~with the approval of the commission))~~ board, detailing the education,
36 training, and experience of the physician assistant and such other
37 information as the ~~((commission))~~ board may require. The application

1 shall be accompanied by a fee determined by the ((~~secretary~~)) board as
2 provided in RCW ((~~43.70.250 and 43.70.280~~)) 18.71.040 and 18.71.080.
3 A surcharge of twenty-five dollars per year shall be charged on each
4 license renewal or issuance of a new license to be collected by the
5 ((~~department~~)) board and deposited into the impaired physician account
6 for physician assistant participation in the impaired physician
7 program. Each applicant shall furnish proof satisfactory to the
8 ((~~commission~~)) board of the following:

9 (a) That the applicant has completed an accredited physician
10 assistant program approved by the ((~~commission~~)) board and is eligible
11 to take the examination approved by the ((~~commission~~)) board;

12 (b) That the applicant is of good moral character; and

13 (c) That the applicant is physically and mentally capable of
14 practicing medicine as a physician assistant with reasonable skill and
15 safety. The ((~~commission~~)) board may require an applicant to submit to
16 such examination or examinations as it deems necessary to determine an
17 applicant's physical or mental capability, or both, to safely practice
18 as a physician assistant.

19 (4) The ((~~commission~~)) board may approve, deny, or take other
20 disciplinary action upon the application for license as provided in the
21 ((~~Uniform~~)) medical disciplinary act, chapter ((~~18.130 RCW~~)) 18.-- RCW
22 (sections 201 through 246 of this act). The license shall be renewed
23 as determined under RCW ((~~43.70.250 and 43.70.280~~)) 18.71.040 and
24 18.71.080. The ((~~commission~~)) board may authorize the use of
25 alternative supervisors who are licensed either under chapter 18.57 or
26 18.71 RCW.

27 **Sec. 142.** RCW 18.71A.025 and 1986 c 259 s 106 are each amended to
28 read as follows:

29 The ((~~uniform~~)) medical disciplinary act, chapter ((~~18.130 RCW~~))
30 18.-- RCW (sections 201 through 246 of this act), governs the issuance
31 and denial of licenses and the discipline of licensees under this
32 chapter.

33 **Sec. 143.** RCW 18.71A.030 and 1994 sp.s. c 9 s 320 are each amended
34 to read as follows:

35 A physician assistant may practice medicine in this state only with
36 the approval of the practice arrangement plan by the ((~~commission~~))

1 board and only to the extent permitted by the ((~~commission~~)) board. A
2 physician assistant who has received a license but who has not received
3 ((~~commission~~)) board approval of the practice arrangement plan under
4 RCW 18.71A.040 may not practice. A physician assistant shall be
5 subject to discipline under chapter ((~~18.130 RCW~~)) 18.-- RCW (sections
6 201 through 246 of this act).

7 **Sec. 144.** RCW 18.71A.040 and 1996 c 191 s 58 and 1996 c 191 s 40
8 are each reenacted and amended to read as follows:

9 (1) No physician assistant practicing in this state shall be
10 employed or supervised by a physician or physician group without the
11 approval of the ((~~commission~~)) board.

12 (2) Prior to commencing practice, a physician assistant licensed in
13 this state shall apply to the ((~~commission~~)) board for permission to be
14 employed or supervised by a physician or physician group. The practice
15 arrangement plan shall be jointly submitted by the physician or
16 physician group and physician assistant. ((~~Administrative~~))
17 Procedures, ((~~administrative~~)) requirements, and fees shall be
18 established as provided in RCW ((~~43.70.250 and 43.70.280~~)) 18.71.040
19 and 18.71.080. The practice arrangement plan shall delineate the
20 manner and extent to which the physician assistant would practice and
21 be supervised. Whenever a physician assistant is practicing in a
22 manner inconsistent with the approved practice arrangement plan, the
23 ((~~commission~~)) board may take disciplinary action under chapter
24 ((~~18.130 RCW~~)) 18.-- RCW (sections 201 through 246 of this act).

25 **Sec. 145.** RCW 18.71A.050 and 1994 sp.s. c 9 s 323 are each amended
26 to read as follows:

27 No physician who supervises a licensed physician assistant in
28 accordance with and within the terms of any permission granted by the
29 ((~~commission~~)) board is considered as aiding and abetting an unlicensed
30 person to practice medicine. The supervising physician and physician
31 assistant shall retain professional and personal responsibility for any
32 act, which constitutes the practice of medicine as defined in RCW
33 18.71.011 when performed by the physician assistant.

34 **Sec. 146.** RCW 18.71A.085 and 1994 sp.s. c 9 s 325 are each amended
35 to read as follows:

1 Any physician assistant acupuncturist currently licensed by the
2 ((commission)) board may continue to perform acupuncture under the
3 physician assistant license as long as he or she maintains licensure as
4 a physician assistant.

5 **PART II - CREATION OF THE MEDICAL DISCIPLINARY ACT**

6 **Improving Patient Safety**

7 NEW SECTION. **Sec. 201.** Protecting patients is one of the
8 legislature's most important goals and a necessary component of an
9 efficient health delivery system. Therefore, it is the intent of the
10 legislature to improve patient safety by requiring greater
11 accountability from the procedures, processes, and organization
12 responsible for disciplining the state's licensed physicians and
13 physician assistants through the establishment of a separate
14 disciplinary act, the medical disciplinary act, with procedures and
15 processes unique to the medical profession and the creation of a
16 separate independent medical review body responsible for ruling on
17 medical disciplinary cases.

18 **Medical Disciplinary Act Definitions**

19 NEW SECTION. **Sec. 202.** The definitions in this section apply
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Board" means the Washington state medical board for safety and
22 quality, which has the authority to take disciplinary action against a
23 holder of, or applicant for, a license to practice medicine upon a
24 finding of a violation of this chapter.

25 (2) "Medical review panel" means an independent adjudicative panel
26 responsible for acting as the impartial trier of fact and issuing final
27 orders for all disciplinary hearings brought pursuant to this chapter.

28 (3) "Medical law judge" means an attorney licensed in the state of
29 Washington responsible for (a) ensuring all disciplinary hearings
30 requested pursuant to this chapter are conducted in a fair and
31 efficient manner, (b) presiding over all disciplinary hearings and
32 ruling on all procedural and evidentiary motions, (c) assisting the
33 medical review panel with other general issues of procedure and

1 process, and (d) signing off on all orders, stipulations, subpoena
2 requests, statements of charges, summary suspensions, or other actions
3 taken by the board or the medical review panel.

4 (4) "Unlicensed practice" means:

5 (a) Practicing medicine without holding a valid, unexpired,
6 unrevoked, and unsuspended license; or

7 (b) Representing to a consumer, through offerings, advertisements,
8 or use of a professional title or designation, that the individual is
9 qualified to practice medicine, without holding a valid, unexpired,
10 unrevoked, and unsuspended license to do so.

11 (5) "Disciplinary action" means sanctions identified in section 224
12 of this act.

13 (6) "Practice review" means an investigative audit of records
14 related to the complaint, without prior identification of specific
15 patient or consumer names, or an assessment of the conditions,
16 circumstances, and methods of the professional's practice related to
17 the complaint, to determine whether unprofessional conduct may have
18 been committed.

19 (7) "Health agency" means city and county health departments and
20 the department of health.

21 (8) "License," "licensing," and "licensure" shall be deemed
22 equivalent to the terms "license," "licensing," "licensure,"
23 "certificate," "certification," and "registration" as those terms are
24 defined in RCW 18.120.020.

25 **Disciplining Authority of the Medical Board for**
26 **Patient Safety and Quality**

27 NEW SECTION. **Sec. 203.** (1) This chapter applies to the medical
28 board for safety and quality and the physicians and physician
29 assistants licensed under chapters 18.71 and 18.71A RCW.

30 (2) In addition to the authority to discipline physician and
31 physician assistant license holders, the board has the authority to
32 grant or deny licenses, including granting of a license subject to
33 conditions, based on the conditions and criteria established in this
34 chapter and in chapters 18.71 and 18.71A RCW. This chapter also
35 governs any investigation, hearing, or proceeding relating to denial of

1 licensure or issuance of a license conditioned on the applicant's
2 compliance with an order entered pursuant to section 224 of this act by
3 the board or medical review panel.

4 NEW SECTION. **Sec. 204.** The board has the following authority:

5 (1) To adopt, amend, and rescind such rules as are deemed necessary
6 to carry out this chapter, and, in consultation with the medical review
7 panel, to adopt, amend, and rescind such rules as are deemed necessary
8 to carry out the activities of the medical review panel as set forth in
9 this chapter;

10 (2) To investigate all complaints or reports of unprofessional
11 conduct as defined in this chapter;

12 (3) To issue subpoenas and administer oaths in connection with any
13 investigation or proceeding held under this chapter;

14 (4) To take or cause depositions to be taken and use other
15 discovery procedures as needed in any investigation or proceeding held
16 under this chapter;

17 (5) In the course of investigating a complaint or report of
18 unprofessional conduct, to conduct practice reviews;

19 (6) To take emergency action ordering summary suspension of a
20 license, or restriction or limitation of the license holder's practice
21 pending completion of all required proceedings provided for in this
22 chapter. Consistent with section 241 of this act, the board shall
23 issue a summary suspension of the license or temporary practice permit
24 of a license holder prohibited from practicing medicine in another
25 state, federal, or foreign jurisdiction because of an act of
26 unprofessional conduct that is substantially equivalent to an act of
27 unprofessional conduct prohibited by this chapter. The summary
28 suspension remains in effect until all required proceedings provided
29 for in this chapter have been completed;

30 (7) To use individual members of the board to direct
31 investigations;

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

34 (9) To contract with licensees or other persons or organizations to
35 provide services necessary for the monitoring and supervision of
36 licensees who are placed on probation, whose professional activities

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

3 (10) To adopt standards of professional conduct or practice;

4 (11) To grant or deny license applications, and in the event of a
5 finding of unprofessional conduct by an applicant or license holder, to
6 impose any sanction against a license applicant or license holder
7 provided by this chapter;

8 (12) To establish panels consisting of three or more members of the
9 board to perform any duty or authority within the board's jurisdiction
10 under this chapter;

11 (13) To review and audit the records of licensed health facilities'
12 or services' quality assurance committee decisions in which a
13 licensee's practice privilege or employment is terminated or
14 restricted. Each health facility or service shall produce and make
15 accessible to the board the appropriate records and otherwise
16 facilitate the review and audit. Information so gained shall not be
17 subject to discovery or introduction into evidence in any civil action
18 pursuant to RCW 70.41.200(3);

19 (14) To employ such investigative, administrative, and clerical
20 staff as necessary for the enforcement of this chapter;

21 (15) To establish fees to be paid for witnesses, expert witnesses,
22 and consultants used in any investigation;

23 (16) To conduct investigations and practice reviews, issue
24 subpoenas, administer oaths, and take depositions in the course of
25 conducting investigations and practice reviews;

26 (17) To establish a system to recruit potential public members,
27 review the qualifications of such potential members, and provide
28 orientation to those public members appointed by the governor;

29 (18) To adopt rules requiring every license holder to report
30 information identified in section 209 of this act;

31 (19) To appoint pro tem members to participate as members of the
32 board or a panel of the board in connection with proceedings
33 specifically identified by the board. Individuals so appointed must
34 meet the same minimum qualifications as regular members of the board.
35 Pro tem members appointed for matters under this chapter are appointed
36 for a term of no more than one year. No pro tem member may serve more
37 than four one-year terms. While serving as board members pro tem,
38 persons so appointed have all the powers, duties, and immunities and

1 are entitled to the emoluments, including travel expenses in accordance
2 with RCW 43.03.050 and 43.03.060, of regular members of the board. The
3 chairperson of a panel of the board shall be a regular member of the
4 board appointed by the board chairperson. Board panels have authority
5 to act as directed by the board with respect to all matters concerning
6 the review, investigation, and settlement of all complaints,
7 allegations, charges, and matters subject to the jurisdiction of the
8 board. The authority to act through board panels does not restrict the
9 authority of the board to act as a single body at any phase of
10 proceedings within the board's jurisdiction. Board panels may make
11 interim orders and issue final orders with respect to matters and cases
12 delegated to the panel by the board.

13 **Disciplining Authority of the Medical Review Panel**

14 NEW SECTION. **Sec. 205.** The medical review panel has the following
15 authority:

16 (1) Assist the board with its responsibility of adopting, amending,
17 and rescinding rules deemed necessary to carry out the activities of
18 the medical review panel as set forth in this chapter;

19 (2) In consultation with the board, enter into contracts for
20 professional services determined necessary for administering this
21 chapter;

22 (3) Upon a finding, after a disciplinary hearing, that a license
23 holder or applicant has committed unprofessional conduct or is unable
24 to practice with reasonable skill and safety due to a physical or
25 mental condition, the panel may issue an order pursuant to section 224
26 of this act;

27 (4) Authorize the board to monitor, supervise, and enforce any
28 sanction or order issued by the panel against a licensee;

29 (5) Review all board summary suspensions within ten days for
30 probable cause;

31 (6) Appoint pro tem members to participate as members of the panel
32 in connection with disciplinary proceedings. Individuals so appointed
33 must meet the same minimum qualifications as regular members of the
34 panel. Pro tem members appointed for matters under this chapter are
35 appointed for a term of no more than one year. No pro tem member may
36 serve more than four one-year terms. While serving as panel members

1 pro tem, persons so appointed have all the powers, duties, and
2 immunities and are entitled to the emoluments, including travel
3 expenses in accordance with RCW 43.03.050 and 43.03.060, of regular
4 members of the panel.

5 **Disciplinary Authority of the Medical Law Judge**

6 NEW SECTION. **Sec. 206.** The medical law judge has the following
7 authority:

8 (1) To schedule and preside over all disciplinary hearings as
9 provided for in this chapter;

10 (2) To rule on procedural and other motions, issue subpoenas, and
11 administer oaths in connection with disciplinary hearings;

12 (3) To compel attendance of witnesses at disciplinary hearings;

13 (4) To sign off on all orders, stipulations, subpoena requests,
14 statements of charges, summary suspensions, or other actions taken by
15 the board or the medical review panel;

16 (5) To employ such administrative and clerical staff as necessary
17 for the enforcement of this chapter;

18 (6) To provide legal, administrative, and other assistance as
19 requested by the medical review panel;

20 (7) To establish fees to witnesses in any disciplinary proceeding
21 as authorized by RCW 34.05.446.

22 **Summary Suspensions**

23 NEW SECTION. **Sec. 207.** A decision on whether to issue a summary
24 suspension or immediate restriction on a license pursuant to the
25 board's authority under section 204(6) of this act, must be made by the
26 board, or a panel of the board, within seventy-two hours of receipt of
27 a completed case file that is ready for consideration and action.

28 NEW SECTION. **Sec. 208.** (1) The board or a panel of the board may
29 summarily suspend or restrict a license holder's license without a
30 hearing if the board or panel of the board makes a good faith
31 determination that the license holder poses an immediate threat to the
32 public health and safety. Unless waived, within ten days of the
33 suspension or restriction the license holder is entitled to a show

1 cause hearing solely to determine whether or not the license holder
2 poses an immediate threat to the public. The show cause hearing shall
3 be before a medical review panel. At the show cause hearing, the
4 medical review panel may consider all evidence and shall provide the
5 license holder with an opportunity to provide testimony and be
6 represented by legal counsel.

7 (2) If the medical review panel determines that the license holder
8 does not pose an immediate threat to the public health and safety, the
9 panel may overturn the summary suspension or restriction order. If the
10 panel determines that the license holder does in fact pose an immediate
11 threat to the public health and safety the suspension or restriction
12 remains in effect. The panel may also amend a board order so long as
13 the amended order ensures the license holder will no longer pose an
14 immediate threat to the public health and safety.

15 (3) Within twenty days of the medical review panel's determination
16 to sustain the suspension, the license holder may request a full
17 hearing before a new medical review panel to contest the basis for the
18 board's issuance of the summary suspension order. The full hearing
19 before the medical review panel shall be scheduled by the medical law
20 judge within ninety days of receipt of the request for a hearing.

21 **Mandatory Reporting of Unprofessional Conduct**

22 NEW SECTION. **Sec. 209.** (1)(a) The board shall adopt rules
23 requiring every license holder to report to the board any conviction,
24 determination, or finding that another license holder has committed an
25 act which constitutes unprofessional conduct, or to report information
26 to the board, an impaired practitioner program, voluntary substance
27 abuse monitoring program approved by the board, or physician education
28 and improvement program approved by the board, which indicates that the
29 other license holder may not be able to practice his or her profession
30 with reasonable skill and safety to consumers as a result of a mental
31 or physical condition.

32 (b) The board may adopt rules to require other persons, including
33 corporations, organizations, health care facilities, impaired
34 practitioner programs, voluntary substance abuse monitoring programs
35 approved by the board, or physician education and improvement program

1 approved by the board, and state or local government agencies to
2 report:

3 (i) Any conviction, determination, or finding that a license holder
4 has committed an act which constitutes unprofessional conduct; or

5 (ii) Information to the board, an impaired practitioner program,
6 voluntary substance abuse monitoring program approved by the board, or
7 physician education and improvement program approved by the board,
8 which indicates that the license holder may not be able to practice his
9 or her profession with reasonable skill and safety to consumers as a
10 result of a mental or physical condition.

11 (c) If a report has been made by a hospital to the department of
12 health pursuant to RCW 70.41.210, the department shall forward the
13 report to the board. To facilitate meeting the intent of this section,
14 the cooperation of agencies of the federal government is requested by
15 reporting any conviction, determination, or finding that a federal
16 employee or contractor regulated by the board has committed an act
17 which constituted unprofessional conduct and reporting any information
18 which indicates that a federal employee or contractor regulated by the
19 board may not be able to practice his or her profession with reasonable
20 skill and safety as a result of a mental or physical condition.

21 (d) Reporting under this section is not required by:

22 (i) Any entity with a peer review committee, quality improvement
23 committee, or other similarly designated professional review committee,
24 or by a license holder who is a member of such committee, during the
25 investigative phase of the respective committee's operations if the
26 investigation is completed in a timely manner; or

27 (ii) An impaired practitioner program, voluntary substance abuse
28 monitoring program approved by the board, or physician education and
29 improvement program approved by the board, if (A) the license holder is
30 currently enrolled in the program, (B) the license holder actively
31 participates in the program, and (C) the license holder's impairment
32 does not constitute a clear and present danger to the public health,
33 safety, or welfare.

34 (2) If a person fails to furnish a required report, the board may
35 petition the superior court of the county in which the person resides
36 or is found, and the court shall issue to the person an order to
37 furnish the required report. A failure to obey the order is a contempt
38 of court as provided in chapter 7.21 RCW.

1 (3) A person is immune from civil liability, whether direct or
2 derivative, for providing information to the board pursuant to the
3 rules adopted under subsection (1) of this section.

4 (4)(a) The holder of a license subject to the jurisdiction of this
5 chapter shall report to the board:

6 (i) Any conviction, determination, or finding that he or she has
7 committed unprofessional conduct or is unable to practice with
8 reasonable skill or safety; and

9 (ii) Any disqualification from participation in the federal
10 medicare program, under Title XVIII of the federal social security act,
11 or the federal medicaid program, under Title XIX of the federal social
12 security act.

13 (b) Failure to report within thirty days of notice of the
14 conviction, determination, finding, or disqualification constitutes
15 grounds for disciplinary action.

16 **Temporary Practice Permits**

17 NEW SECTION. **Sec. 210.** (1) If an individual licensed in another
18 state that has licensing standards substantially equivalent to
19 Washington applies for a license, the board shall issue a temporary
20 practice permit authorizing the applicant to practice the profession
21 pending completion of documentation that the applicant meets the
22 requirements for a license and is also not subject to denial of a
23 license or issuance of a conditional license under this chapter. The
24 temporary permit may reflect statutory limitations on the scope of
25 practice. The permit shall be issued only upon the board receiving
26 verification from the states in which the applicant is licensed that
27 the applicant is currently licensed and is not subject to charges or
28 disciplinary action for unprofessional conduct or impairment.
29 Notwithstanding RCW 34.05.422(3), the board shall establish, by rule,
30 the duration of the temporary practice permits.

31 (2) Failure to surrender the temporary practice permit is a
32 misdemeanor under RCW 9A.20.010 and is unprofessional conduct under
33 this chapter.

34 (3) The issuance of temporary permits is subject to the provisions
35 of this chapter, including summary suspensions.

1 **Voluntary Reporting of Unprofessional Conduct**

2 NEW SECTION. **Sec. 211.** (1) A person, including but not limited to
3 consumers, licensees, corporations, organizations, health care
4 facilities, impaired practitioner programs, voluntary substance abuse
5 monitoring programs approved by the board, physician education and
6 improvement programs approved by the board, and state and local
7 governmental agencies, may submit a written complaint to the board
8 charging a license holder or applicant with unprofessional conduct and
9 specifying the grounds of the complaint or to report information to the
10 board, voluntary substance abuse monitoring program, an impaired
11 practitioner program approved by the board, or physician education and
12 improvement program approved by the board, which indicates that the
13 license holder may not be able to practice his or her profession with
14 reasonable skill and safety to consumers as a result of a mental or
15 physical condition. If the board determines that the complaint merits
16 investigation, or if the board has reason to believe, without a formal
17 complaint, that a license holder or applicant may have engaged in
18 unprofessional conduct, the board shall investigate to determine
19 whether there has been unprofessional conduct. In determining whether
20 or not to investigate, the board shall consider any prior complaints
21 received by the board, any prior findings of fact under section 217 of
22 this act, any stipulations to informal disposition under section 227 of
23 this act, and any comparable action taken by other state disciplining
24 authorities.

25 (2) Notwithstanding subsection (1) of this section, the board shall
26 initiate an investigation in every instance where the board receives
27 information that a license holder has been disqualified from
28 participating in the federal medicare program, under Title XVIII of the
29 federal social security act, or the federal medicaid program, under
30 Title XIX of the federal social security act.

31 (3) A person who files a complaint or reports information under
32 this section in good faith is immune from suit in any civil action
33 related to the filing or contents of the complaint.

34 **Communications with Complainant**

35 NEW SECTION. **Sec. 212.** If the board communicates in writing to a
36 complainant, or his or her representative, regarding his or her

1 complaint, such communication shall not include the address or
2 telephone number of the license holder against whom he or she has
3 complained. The board shall inform all applicants for a license of the
4 provisions of this section and chapter 42.56 RCW regarding the release
5 of address and telephone information.

6 **Statement of Charge and Request for Hearing**

7 NEW SECTION. **Sec. 213.** (1) If the board determines, upon
8 investigation, that there is reason to believe a violation of section
9 229 of this act has occurred, a statement of charge or charges shall be
10 prepared and served upon the license holder or applicant at the
11 earliest practical time. The statement of charge or charges shall be
12 accompanied by a notice that the license holder or applicant may
13 request a hearing before a medical review panel to contest the charge
14 or charges. The license holder or applicant must file a request for
15 hearing with the presiding medical law judge within twenty days after
16 being served the statement of charges. If the twenty-day limit results
17 in a hardship upon the license holder or applicant, he or she may
18 request for good cause an extension not to exceed sixty additional
19 days. If the medical law judge finds that there is good cause, the
20 judge shall grant the extension. The failure to request a hearing
21 constitutes a default, whereupon the board may enter a decision on the
22 basis of the facts available to it.

23 (2) If a hearing is requested, the time of the hearing shall be
24 fixed by the medical law judge as soon as convenient, but the hearing
25 shall not be held earlier than thirty days after service of the charges
26 upon the license holder or applicant.

27 **Complaints--Rules, Process, and Investigations**

28 NEW SECTION. **Sec. 214.** (1)(a) The board shall develop uniform
29 procedural rules to respond to public inquiries concerning complaints
30 and their disposition, active investigations, statements of charges,
31 findings of fact, and final orders involving a licensee, applicant, or
32 unlicensed person. Rules adopted by the board related to hearings
33 before the medical review panel shall be developed by the board in
34 consultation with the medical review panel. The procedural rules

1 adopted under this subsection apply to all adjudicative proceedings
2 conducted under this chapter and shall include provisions for
3 establishing time periods for initial assessment, investigation,
4 charging, discovery, settlement, and adjudication of complaints, and
5 shall include enforcement provisions for violations of the specific
6 time periods by the board, the medical review panel, and the
7 respondent. Except when the notification would impede an effective
8 investigation, a licensee must be notified upon receipt of a complaint,
9 including, as determined by the board, an appropriate amount of
10 information as to the nature of the complaint. At the earliest point
11 of time the licensee must be allowed to submit a written statement
12 about that complaint, which statement must be included in the file.
13 Complaints are exempt from public disclosure under chapter 42.56 RCW
14 until the complaint has been initially assessed and determined to
15 warrant an investigation by the board. Complaints determined not to
16 warrant an investigation by the board are no longer considered
17 complaints, but must remain in the records and tracking system of the
18 board. Information about complaints that did not warrant an
19 investigation, including the existence of the complaint, may be
20 released only upon receipt of a written public disclosure request or
21 pursuant to an interagency agreement as provided in (b) of this
22 subsection. Complaints determined to warrant no cause for action after
23 investigation are subject to public disclosure, must include an
24 explanation of the determination to close the complaint, and must
25 remain in the records and tracking system of the board.

26 (b) The board shall enter into interagency agreements for the
27 exchange of records, which may include complaints filed but not yet
28 assessed, with other state agencies if access to the records will
29 assist those agencies in meeting their federal or state statutory
30 responsibilities. Records obtained by state agencies under the
31 interagency agreements are subject to the limitations on disclosure
32 contained in (a) of this subsection.

33 (2) The procedures for conducting investigations shall provide that
34 prior to taking a written statement:

35 (a) For violation of this chapter, the investigator shall inform
36 such person, in writing of: (i) The nature of the complaint; (ii) that
37 the person may consult with legal counsel at his or her expense prior

1 to making a statement; and (iii) that any statement that the person
2 makes may be used in an adjudicative proceeding conducted under this
3 chapter; and

4 (b) From a witness or potential witness in an investigation under
5 this chapter, the investigator shall inform the person, in writing,
6 that the statement may be released to the licensee, applicant, or
7 unlicensed person under investigation if a statement of charges is
8 issued.

9 **Settlements, Hearings, and Other Proceedings**

10 NEW SECTION. **Sec. 215.** (1) The settlement process must be uniform
11 for all licensees governed under this chapter. The board may also use
12 alternative dispute resolution to resolve complaints during
13 adjudicative proceedings.

14 (2) Disclosure of the identity of reviewing board members who
15 participate in the settlement process is available to the respondent or
16 his or her representative upon request.

17 (3) The settlement conference will occur only if a settlement is
18 not achieved through written documents. The respondent will have the
19 opportunity to conference either by phone or in person with the
20 reviewing board member if the respondent chooses. The respondent may
21 also have his or her attorney conference either by phone or in person
22 with the reviewing board member without the respondent being present
23 personally.

24 (4) If the respondent wants to meet in person with the reviewing
25 board member, he or she will travel to the reviewing board member and
26 have such a conference with another board representative in attendance
27 either by phone or in person.

28 NEW SECTION. **Sec. 216.** Except as otherwise set forth in this
29 chapter, the procedures governing adjudicative proceedings before
30 agencies under chapter 34.05 RCW, the administrative procedure act,
31 govern all hearings before the medical review panel. The medical
32 review panel and medical law judge have, in addition to the powers and
33 duties set forth in this chapter, all of the powers and duties under
34 chapter 34.05 RCW, which include, without limitation, all powers

1 relating to the administration of oaths, the receipt of evidence, the
2 issuance and enforcing of subpoenas, and the taking of depositions.

3 NEW SECTION. **Sec. 217.** (1) In the event of a finding of
4 unprofessional conduct, the board or the medical review panel, as the
5 case may be, shall prepare and serve findings of fact and an order as
6 provided in chapter 34.05 RCW, the administrative procedure act. If
7 the license holder or applicant is found to have not committed
8 unprofessional conduct by the board or after a hearing by the medical
9 review panel, the board or the medical review panel, as the case may
10 be, shall forthwith prepare and serve findings of fact and an order of
11 dismissal of the charges, including public exoneration of the licensee
12 or applicant. The findings of fact and order shall be retained by the
13 board or the medical review panel, as the case may be, as a permanent
14 record.

15 (2) The board shall report the issuance of statements of charges
16 and final orders, including final orders issued by the medical review
17 panel, to:

18 (a) The person or agency who brought to the board's attention
19 information which resulted in the initiation of the case;

20 (b) Appropriate organizations, public or private, which serve the
21 professions;

22 (c) The public. Notification of the public shall include press
23 releases to appropriate local news media and the major news wire
24 services; and

25 (d) Counterpart licensing boards in other states, or associations
26 of state licensing boards.

27 (3) This section shall not be construed to require the reporting of
28 any information which is exempt from public disclosure under chapter
29 42.56 RCW.

30 **Actions Against License**

31 NEW SECTION. **Sec. 218.** The board shall not issue any license to
32 any person whose license has been denied, revoked, or suspended by the
33 board or medical review panel except in conformity with the terms and
34 conditions of the certificate or order of denial, revocation, or

1 suspension, or in conformity with any order of reinstatement issued by
2 the board or medical review panel, or in accordance with the final
3 judgment in any proceeding for review instituted under this chapter.

4 NEW SECTION. **Sec. 219.** The board shall suspend the license of any
5 person who has been certified by a lending agency and reported to the
6 board for nonpayment or default on a federally or state-guaranteed
7 educational loan or service-conditional scholarship. Prior to the
8 suspension, the board must provide the person an opportunity for a
9 brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and
10 issue a finding of nonpayment or default on a federally or state-
11 guaranteed educational loan or service-conditional scholarship. The
12 person's license shall not be reissued until the person provides the
13 board with a written release issued by the lending agency stating that
14 the person is making payments on the loan in accordance with a
15 repayment agreement approved by the lending agency. If the person has
16 continued to meet all other requirements for licensure during the
17 suspension, reinstatement shall be automatic upon receipt of the notice
18 and payment of any reinstatement fee the board may impose.

19 NEW SECTION. **Sec. 220.** The board shall immediately suspend the
20 license of any person subject to this chapter who has been certified by
21 the department of social and health services as a person who is not in
22 compliance with a support order as provided in RCW 74.20A.320.

23 NEW SECTION. **Sec. 221.** An order pursuant to proceedings
24 authorized by this chapter, after due notice and findings in accordance
25 with this chapter and chapter 34.05 RCW, or an order of summary
26 suspension entered under this chapter, shall take effect immediately
27 upon its being served. The order, if appealed to the court, shall not
28 be stayed pending the appeal unless the board or medical review panel
29 that issued the order or court to which the appeal is taken enters an
30 order staying the order of the board or medical review panel, which
31 stay shall provide for terms necessary to protect the public.

32 NEW SECTION. **Sec. 222.** An individual who has been disciplined or
33 whose license has been denied by the board or medical review panel may
34 appeal the decision as provided in chapter 34.05 RCW.

1 (8) Payment of a fine for each violation of this chapter, not to
2 exceed five thousand dollars per violation. Funds received shall be
3 placed in the medical professions account;

4 (9) Denial of the license request;

5 (10) Corrective action;

6 (11) Refund of fees billed to and collected from the consumer;

7 (12) A surrender of the practitioner's license in lieu of other
8 sanctions, which must be reported to the federal data bank.

9 Any of the actions under this section may be totally or partly
10 stayed by the medical review panel. Safeguarding the public's health
11 and safety is the paramount responsibility of the medical review panel
12 and in determining what action is appropriate, the medical review panel
13 must first consider what sanctions are necessary to protect or
14 compensate the public. Only after such provisions have been made may
15 the medical review panel consider and include in the order requirements
16 designed to rehabilitate the license holder or applicant. All costs
17 associated with compliance with orders issued under this section are
18 the obligation of the license holder or applicant.

19 The licensee or applicant may enter into a stipulated disposition
20 of charges with the board that includes one or more of the sanctions of
21 this section, but only after a statement of charges has been issued and
22 the licensee has been afforded the opportunity for a hearing before the
23 medical review panel and has elected on the record to forego such a
24 hearing. The stipulation shall either contain one or more specific
25 findings of unprofessional conduct or inability to practice, or a
26 statement by the licensee acknowledging that evidence is sufficient to
27 justify one or more specified findings of unprofessional conduct or
28 inability to practice. The stipulation entered into pursuant to this
29 subsection shall be considered formal disciplinary action for all
30 purposes.

31 **Fines**

32 NEW SECTION. **Sec. 225.** Where an order for payment of a fine is
33 made as a result of a hearing under section 216 or 231 of this act and
34 timely payment is not made as directed in the final order, the board
35 may enforce the order for payment in the superior court in the county
36 in which the hearing was held. This right of enforcement shall be in

1 addition to any other rights the board may have as to any licensee
2 ordered to pay a fine but shall not be construed to limit a licensee's
3 ability to seek judicial review under section 222 of this act.

4 In any action for enforcement of an order of payment of a fine, the
5 board or medical panel's order, as the case may be, is conclusive proof
6 of the validity of the order of payment of a fine and the terms of
7 payment.

8 **Mental or Physical Capacity of License Holder**

9 NEW SECTION. **Sec. 226.** (1) If the board believes a license holder
10 or applicant may be unable to practice with reasonable skill and safety
11 to consumers by reason of any mental or physical condition, a statement
12 of charges in the name of the board shall be served on the license
13 holder or applicant and notice shall also be issued providing an
14 opportunity for a hearing before the medical review panel. The hearing
15 shall be limited to the sole issue of the capacity of the license
16 holder or applicant to practice with reasonable skill and safety. If
17 the medical review panel determines that the license holder or
18 applicant is unable to practice with reasonable skill and safety for
19 one of the reasons stated in this subsection, the medical review panel
20 shall impose such sanctions under section 224 of this act as is deemed
21 necessary to protect the public. If the license holder chooses not to
22 have the case heard before the medical review panel, the board must
23 assume the allegations raised in the statement of charges are correct
24 and shall impose sanctions under section 224 of this act as is deemed
25 necessary to protect the public.

26 (2)(a) In investigating a complaint or report that a license holder
27 or applicant may be unable to practice with reasonable skill or safety
28 by reason of any mental or physical condition, the board may require a
29 license holder or applicant to submit to a mental or physical
30 examination by one or more licensed or certified health professionals
31 designated by the board. The license holder or applicant shall be
32 provided written notice of the board's intent to order a mental or
33 physical examination, which notice shall include: (i) A statement of
34 the specific conduct, event, or circumstances justifying an
35 examination; (ii) a summary of the evidence supporting the board's
36 concern that the license holder or applicant may be unable to practice

1 with reasonable skill and safety by reason of a mental or physical
2 condition, and the grounds for believing such evidence to be credible
3 and reliable; (iii) a statement of the nature, purpose, scope, and
4 content of the intended examination; (iv) a statement that the license
5 holder or applicant has the right to respond in writing within twenty
6 days to challenge the board's grounds for ordering an examination or to
7 challenge the manner or form of the examination; and (v) a statement
8 that if the license holder or applicant timely responds to the notice
9 of intent, then the license holder or applicant will not be required to
10 submit to the examination while the response is under consideration.

11 (b) Upon submission of a timely response to the notice of intent to
12 order a mental or physical examination, the license holder or applicant
13 shall have an opportunity to respond to or refute such an order by
14 submission of evidence or written argument or both. The evidence and
15 written argument supporting and opposing the mental or physical
16 examination shall be reviewed by the medical review panel. The medical
17 review panel may, in its discretion, ask for oral argument from the
18 parties. The medical review panel shall prepare a written decision as
19 to whether there is reasonable cause to believe that the license holder
20 or applicant may be unable to practice with reasonable skill and safety
21 by reason of a mental or physical condition, or the manner or form of
22 the mental or physical examination that is appropriate, or both.

23 (c) Upon receipt by the board of the written decision, or upon the
24 failure of the license holder or applicant to timely respond to the
25 notice of intent, the board may issue an order requiring the license
26 holder or applicant to undergo a mental or physical examination. All
27 such mental or physical examinations shall be narrowly tailored to
28 address only the alleged mental or physical condition and the ability
29 of the license holder or applicant to practice with reasonable skill
30 and safety. An order of the board requiring the license holder or
31 applicant to undergo a mental or physical examination is not a final
32 order for purposes of appeal. The cost of the examinations ordered by
33 the board shall be paid out of the medical professions account. In
34 addition to any examinations ordered by the board, the licensee may
35 submit physical or mental examination reports from licensed or
36 certified health professionals of the license holder's or applicant's
37 choosing and expense.

1 (d) If the board finds that a license holder or applicant has
2 failed to submit to a properly ordered mental or physical examination,
3 then the board may order appropriate action or discipline under section
4 229(9) of this act, unless the failure was due to circumstances beyond
5 the person's control. However, no such action or discipline may be
6 imposed unless the license holder or applicant has had the notice and
7 opportunity to challenge the board's grounds for ordering the
8 examination, to challenge the manner and form, to assert any other
9 defenses, and to have such challenges or defenses considered by the
10 medical review panel. Further, the action or discipline ordered by the
11 board shall not be more severe than a suspension of the license,
12 certification, registration, or application until such time as the
13 license holder or applicant complies with the properly ordered mental
14 or physical examination.

15 (e) Nothing in this section restricts the power of the board to act
16 in an emergency under RCW 34.05.422(4), 34.05.479, and section 204(6)
17 of this act.

18 (f) A determination by a court of competent jurisdiction that a
19 license holder or applicant is mentally incompetent or mentally ill is
20 presumptive evidence of the license holder's or applicant's inability
21 to practice with reasonable skill and safety. An individual affected
22 under this section shall at reasonable intervals be afforded an
23 opportunity, at his or her expense, to demonstrate that the individual
24 can resume competent practice with reasonable skill and safety to the
25 consumer.

26 (3) For the purpose of subsection (2) of this section, an applicant
27 or license holder governed by this chapter, by making application,
28 practicing, or filing a license renewal, is deemed to have given
29 consent to submit to a mental, physical, or psychological examination
30 when directed in writing by the board and further to have waived all
31 objections to the admissibility or use of the examining health
32 professional's testimony or examination reports by the board on the
33 ground that the testimony or reports constitute privileged
34 communications.

35

Stipulations

1 NEW SECTION. **Sec. 227.** (1) Prior to serving a statement of
2 charges under section 213 or 226 of this act, the board may furnish a
3 statement of allegations to the licensee or applicant along with a
4 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 applicant or licensee may stipulate that the
10 allegations may be disposed of informally in accordance with this
11 subsection. The stipulation shall contain a statement of the facts
12 leading to the filing of the complaint; the act or acts of
13 unprofessional conduct alleged to have been committed or the alleged
14 basis for determining that the applicant or licensee is unable to
15 practice with reasonable skill and safety; a statement that the
16 stipulation is not to be construed as a finding of either
17 unprofessional conduct or inability to practice; an acknowledgement
18 that a finding of unprofessional conduct or inability to practice, if
19 proven, constitutes grounds for discipline under this chapter; and an
20 agreement on the part of the licensee or applicant that the sanctions
21 set forth in section 224 of this act, except section 224 (1), (2), (6),
22 and (8) of this act, may be imposed as part of the stipulation, except
23 that no fine may be imposed but the licensee or applicant may agree to
24 reimburse the board the costs of investigation and processing the
25 complaint up to an amount not exceeding one thousand dollars per
26 allegation; and an agreement on the part of the board to forego further
27 disciplinary proceedings concerning the allegations. A stipulation
28 entered into pursuant to this subsection shall not be considered formal
29 disciplinary action.

30 (3) If the licensee or applicant declines to agree to disposition
31 of the charges by means of a stipulation pursuant to subsection (2) of
32 this section, the board may proceed to formal disciplinary action
33 pursuant to section 213 or 226 of this act.

34 (4) Upon execution of a stipulation under subsection (2) of this
35 section by both the licensee or applicant and the board, the complaint
36 is deemed disposed of and shall become subject to public disclosure on
37 the same basis and to the same extent as other records of the board.
38 Should the licensee or applicant fail to pay any agreed reimbursement

1 within thirty days of the date specified in the stipulation for
2 payment, the board may seek collection of the amount agreed to be paid
3 in the same manner as enforcement of a fine under section 225 of this
4 act.

5 **Substance Abuse Monitoring Program**

6 NEW SECTION. **Sec. 228.** (1) In lieu of disciplinary action under
7 section 224 of this act and if the board determines that the
8 unprofessional conduct may be the result of substance abuse, the board
9 may refer the license holder to a voluntary substance abuse monitoring
10 program approved by the board.

11 The cost of the treatment is the responsibility of the license
12 holder, but the responsibility does not preclude payment by an
13 employer, existing insurance coverage, or other sources. Primary
14 alcoholism or other drug addiction treatment shall be provided by
15 approved treatment programs under RCW 70.96A.020 or by any other
16 provider approved by the board. However, nothing shall prohibit the
17 board from approving additional services and programs as an adjunct to
18 primary alcoholism or other drug addiction treatment. The board may
19 also approve the use of out-of-state programs. Referral of the license
20 holder to the program shall be done only with the consent of the
21 license holder. Referral to the program may also include probationary
22 conditions for a designated period of time. If the license holder does
23 not consent to be referred to the program or does not successfully
24 complete the program, the board may take appropriate action under
25 section 224 of this act which includes suspension of the license unless
26 or until the board, in consultation with the director of the voluntary
27 substance abuse monitoring program, determines the license holder is
28 able to practice safely. The board shall adopt rules for the
29 evaluation of a relapse or program violation on the part of a license
30 holder in the substance abuse monitoring program. The evaluation shall
31 encourage program participation with additional conditions, in lieu of
32 disciplinary action, when the board determines that the license holder
33 is able to continue to practice with reasonable skill and safety.

34 (2) In addition to approving substance abuse monitoring programs
35 that may receive referrals from the board, the board may establish by
36 rule requirements for participation of license holders who are not

1 being investigated or monitored by the board for substance abuse.
2 License holders voluntarily participating in the approved programs
3 without being referred by the board shall not be subject to
4 disciplinary action under section 224 of this act for their substance
5 abuse, and shall not have their participation made known to the board,
6 if they meet the requirements of this section and the program in which
7 they are participating.

8 (3) The license holder shall sign a waiver allowing the program to
9 release information to the board if the licensee does not comply with
10 the requirements of this section or is unable to practice with
11 reasonable skill or safety. The substance abuse program shall report
12 to the board any license holder who fails to comply with the
13 requirements of this section or the program or who, in the opinion of
14 the program, is unable to practice with reasonable skill or safety.
15 License holders shall report to the board if they fail to comply with
16 this section or do not complete the program's requirements. License
17 holders may, upon the agreement of the program and board, reenter the
18 program if they have previously failed to comply with this section.

19 (4) The treatment and pretreatment records of license holders
20 referred to or voluntarily participating in approved programs are
21 confidential, exempt from chapter 42.56 RCW, and not subject to
22 discovery by subpoena or admissible as evidence except for monitoring
23 records reported to the board for cause as defined in subsection (3) of
24 this section. Monitoring records relating to license holders referred
25 to the program by the board or relating to license holders reported to
26 the board by the program for cause shall be released to the board at
27 the request of the board. Records held by the board under this section
28 are exempt from chapter 42.56 RCW and are not subject to discovery by
29 subpoena except by the license holder.

30 (5) "Substance abuse," as used in this section, means the
31 impairment, as determined by the board, of a license holder's
32 professional services by an addiction to, a dependency on, or the use
33 of alcohol, legend drugs, or controlled substances.

34 (6) This section does not affect an employer's right or ability to
35 make employment-related decisions regarding a license holder. This
36 section does not restrict the authority of the board to take
37 disciplinary action for any other unprofessional conduct.

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

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

7 (i) An approved monitoring treatment program;

8 (ii) The professional association operating the program;

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

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

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

14 (b) The courts are strongly encouraged to impose sanctions on
15 clients and their attorneys whose allegations under this subsection are
16 not made in good faith and are without either reasonable objective or
17 substantive grounds, or both.

18 (c) The immunity provided in this section is in addition to any
19 other immunity provided by law.

20 Unprofessional Conduct

21 NEW SECTION. **Sec. 229.** The following conduct, acts, or conditions
22 constitute unprofessional conduct for any license holder or applicant
23 under the jurisdiction of this chapter:

24 (1) The commission of any act involving moral turpitude,
25 dishonesty, or corruption relating to the practice of medicine, whether
26 the act constitutes a crime or not. If the act constitutes a crime,
27 conviction in a criminal proceeding is not a condition precedent to
28 disciplinary action. Upon such a conviction, however, the judgment and
29 sentence is conclusive evidence at the ensuing disciplinary hearing of
30 the guilt of the license holder or applicant of the crime described in
31 the indictment or information, and of the person's violation of the
32 statute on which it is based. For the purposes of this section,
33 conviction includes all instances in which a plea of guilty or nolo
34 contendere is the basis for the conviction and all proceedings in which
35 the sentence has been deferred or suspended. Nothing in this section
36 abrogates rights guaranteed under chapter 9.96A RCW;

- 1 (2) Misrepresentation or concealment of a material fact in
2 obtaining a license or in reinstatement thereof;
- 3 (3) All advertising which is false, fraudulent, or misleading;
- 4 (4) Incompetence, negligence, or malpractice which results in
5 injury to a patient or which creates an unreasonable risk that a
6 patient may be harmed. The use of a nontraditional treatment by itself
7 does not constitute unprofessional conduct, provided that it does not
8 result in injury to a patient or create an unreasonable risk that a
9 patient may be harmed;
- 10 (5) Suspension, revocation, or restriction of the individual's
11 license to practice medicine by a competent authority in any state,
12 federal, or foreign jurisdiction, a certified copy of the order,
13 stipulation, or agreement being conclusive evidence of the revocation,
14 suspension, or restriction;
- 15 (6) The possession, use, prescription for use, or distribution of
16 controlled substances or legend drugs in any way other than for
17 legitimate or therapeutic purposes, diversion of controlled substances
18 or legend drugs, the violation of any drug law, or prescribing
19 controlled substances for oneself;
- 20 (7) Violation of any state or federal statute or administrative
21 rule regulating the practice of medicine, including any statute or rule
22 defining or establishing standards of patient care or professional
23 conduct or practice;
- 24 (8) Failure to cooperate with the board or the medical review panel
25 by:
- 26 (a) Not furnishing any papers or documents;
- 27 (b) Not furnishing in writing a full and complete explanation
28 covering the matter contained in the complaint filed with the board;
- 29 (c) Not responding to subpoenas issued by the board or the medical
30 review panel, whether or not the recipient of the subpoena is the
31 accused in the proceeding; or
- 32 (d) Not providing reasonable and timely access for authorized
33 representatives of the board seeking to perform practice reviews at
34 facilities utilized by the license holder;
- 35 (9) Failure to comply with an order issued by the board or the
36 medical review panel or a stipulation for informal disposition entered
37 into with the board;

- 1 (10) Aiding or abetting an unlicensed person to practice when a
2 license is required;
- 3 (11) Violations of rules established by any health agency;
- 4 (12) Practice beyond the scope of practice as defined by law or
5 rule;
- 6 (13) Misrepresentation or fraud in any aspect of the conduct of the
7 business or profession;
- 8 (14) Failure to adequately supervise auxiliary staff to the extent
9 that the consumer's health or safety is at risk;
- 10 (15) Engaging in the practice of medicine involving contact with
11 the public while suffering from a contagious or infectious disease
12 involving serious risk to public health;
- 13 (16) Promotion for personal gain of any unnecessary or
14 inefficacious drug, device, treatment, procedure, or service;
- 15 (17) Conviction of (a) a felony, or (b) any gross misdemeanor
16 relating to the practice of the person's profession. For the purposes
17 of this subsection, conviction includes all instances in which a plea
18 of guilty or nolo contendere is the basis for conviction and all
19 proceedings in which the sentence has been deferred or suspended.
20 Nothing in this section abrogates rights guaranteed under chapter 9.96A
21 RCW;
- 22 (18) The procuring, or aiding or abetting in procuring, a criminal
23 abortion;
- 24 (19) The offering, undertaking, or agreeing to cure or treat
25 disease by a secret method, procedure, treatment, or medicine, or the
26 treating, operating, or prescribing for any health condition by a
27 method, means, or procedure which the licensee refuses to divulge upon
28 demand of the board;
- 29 (20) The willful betrayal of a practitioner-patient privilege as
30 recognized by law;
- 31 (21) Violation of chapter 19.68 RCW;
- 32 (22) Interference with an investigation or disciplinary proceeding
33 by willful misrepresentation of facts before the board or its
34 authorized representative, or by the use of threats or harassment
35 against any patient or witness to prevent him or her from providing
36 evidence in a disciplinary proceeding or any other legal action, or by
37 the use of financial inducements to any patient or witness to prevent

1 or attempt to prevent him or her from providing evidence in a
2 disciplinary proceeding;

3 (23) Current misuse of:

- 4 (a) Alcohol;
- 5 (b) Controlled substances; or
- 6 (c) Legend drugs;

7 (24) Abuse of a client or patient or sexual contact with a client
8 or patient;

9 (25) Acceptance of more than a nominal gratuity, hospitality, or
10 subsidy offered by a representative or vendor of medical or health-
11 related products or services intended for patients, in contemplation of
12 a sale or for use in research publishable in professional journals,
13 where a conflict of interest is presented, as defined by rules of the
14 board, based on recognized professional ethical standards;

15 (26) When requested by the board, upon application, renewal, or
16 otherwise, the failure of a licensee or applicant to report to the
17 board final actions taken against him or her by another licensing
18 jurisdiction, peer review body, health care institution, professional
19 or medical society or association, governmental agency, law enforcement
20 agency, or court for acts or conduct similar to acts or conduct that
21 would constitute unprofessional conduct under this section.

22 **Injunction--Crimes--Competency--Immunity, etc.**

23 NEW SECTION. **Sec. 230.** If a person regulated by this chapter
24 violates section 226 or 229 of this act, the attorney general, any
25 prosecuting attorney, the board, or any other person may maintain an
26 action in the name of the state of Washington to enjoin the person from
27 committing the violations. The injunction shall not relieve the
28 offender from criminal prosecution, but the remedy by injunction shall
29 be in addition to the liability of the offender to criminal prosecution
30 and disciplinary action.

31 NEW SECTION. **Sec. 231.** (1) The board shall investigate complaints
32 concerning the practice of medicine by unlicensed persons.

33 (2) The board may issue a notice of intention to issue a cease and
34 desist order to any person whom the board has reason to believe is
35 engaged in the unlicensed practice of medicine. The person to whom

1 such notice is issued may request an adjudicative proceeding before the
2 medical review panel to contest the charges. The request for hearing
3 must be filed within twenty days after service of the notice of
4 intention to issue a cease and desist order. The failure to request a
5 hearing constitutes a default, whereupon the board may enter a
6 permanent cease and desist order, which may include a civil fine. All
7 proceedings shall be conducted in accordance with chapter 34.05 RCW.

8 (3) If the medical review panel makes a final determination that a
9 person has engaged or is engaging in unlicensed practice of medicine,
10 the medical review panel may issue a cease and desist order. In
11 addition, the medical review panel may impose a civil fine in an amount
12 not exceeding one thousand dollars for each day upon which the person
13 engaged in unlicensed practice of medicine. The proceeds of such fines
14 shall be deposited into the medical professions account.

15 (4) If the board makes a written finding of fact that the public
16 interest will be irreparably harmed by delay in issuing an order, the
17 board may issue a temporary cease and desist order. The person
18 receiving a temporary cease and desist order shall be provided an
19 opportunity for a prompt hearing before a medical review panel. The
20 temporary cease and desist order shall remain in effect until further
21 order of the medical review panel. The failure to request a prompt or
22 regularly scheduled hearing constitutes a default, whereupon the board
23 may enter a permanent cease and desist order, which may include a civil
24 fine.

25 (5) Neither the issuance of a cease and desist order nor payment of
26 a civil fine relieves the person so practicing without a license from
27 criminal prosecution, but the remedy of a cease and desist order or
28 civil fine is in addition to any criminal liability. The cease and
29 desist order is conclusive proof of unlicensed practice and may be
30 enforced under RCW 7.21.060. This method of enforcement of the cease
31 and desist order or civil fine may be used in addition to, or as an
32 alternative to, any provisions for enforcement of agency orders set out
33 in chapter 34.05 RCW.

34 (6) The attorney general, a county prosecuting attorney, the board,
35 or any person may in accordance with the laws of this state governing
36 injunctions, maintain an action in the name of this state to enjoin any
37 person practicing medicine without a license from engaging in such
38 practice until the required license is secured. However, the

1 injunction does not relieve the person practicing without a license
2 from criminal prosecution, but the remedy by injunction is in addition
3 to any criminal liability.

4 (7)(a) Unlicensed practice of medicine, unless otherwise exempted
5 by law, constitutes a gross misdemeanor for a single violation.

6 (b) Each subsequent violation, whether alleged in the same or in
7 subsequent prosecutions, is a class C felony punishable according to
8 chapter 9A.20 RCW.

9 (8) All fees, fines, forfeitures, and penalties collected or
10 assessed by a court because of a violation of this section shall be
11 remitted to the medical professions account.

12 NEW SECTION. **Sec. 232.** A person that violates an injunction
13 issued under this chapter shall pay a civil penalty, as determined by
14 the court, of not more than twenty-five thousand dollars, which shall
15 be placed in the medical professions account. For the purpose of this
16 section, the superior court issuing any injunction shall retain
17 jurisdiction and the cause shall be continued, and in such cases the
18 attorney general acting in the name of the state may petition for the
19 recovery of civil penalties.

20 NEW SECTION. **Sec. 233.** A person who attempts to obtain, obtains,
21 or attempts to maintain a license by willful misrepresentation or
22 fraudulent representation is guilty of a gross misdemeanor.

23 NEW SECTION. **Sec. 234.** If the board determines or has cause to
24 believe that a license holder has committed a crime, the board,
25 immediately subsequent to issuing findings of fact and a final order,
26 shall notify the attorney general or the county prosecuting attorney in
27 the county in which the act took place of the facts known to the board.

28 NEW SECTION. **Sec. 235.** The board may adopt rules pursuant to this
29 section authorizing a retired active license status. Such a licensee
30 shall meet the continuing education or continued competency
31 requirements, if any, established by the board for renewals and is
32 subject to the provisions of this chapter. Individuals who have
33 entered into retired status agreements with the board in any

1 jurisdiction do not qualify for a retired active license under this
2 section.

3 NEW SECTION. **Sec. 236.** (1) The board, medical review panel,
4 medical law judge, or individuals acting on their behalf are immune
5 from suit in any action, civil or criminal, based on any disciplinary
6 proceedings or other official acts performed in the course of their
7 duties.

8 (2) A voluntary substance abuse monitoring program, an impaired
9 practitioner program, or a physician education and improvement program,
10 approved by the board, or individuals acting on their behalf, are
11 immune from suit in a civil action based on any disciplinary
12 proceedings or other official acts performed in the course of their
13 duties.

14 NEW SECTION. **Sec. 237.** Subject to RCW 40.07.040, the board shall
15 submit a biennial report to the legislature on its proceedings during
16 the biennium, detailing the number of complaints made, investigated,
17 and adjudicated and manner of disposition. The report may include
18 recommendations for improving the disciplinary process, including
19 proposed legislation. The board shall develop a uniform report format.

20 NEW SECTION. **Sec. 238.** The department of health shall coordinate
21 and assist the board with prescriptive authority in the development of
22 uniform guidelines for addressing opiate therapy for acute pain,
23 chronic pain associated with cancer and other terminal diseases, and
24 other chronic or intractable pain conditions. The purpose of the
25 guidelines is to assure the provision of effective medical treatment in
26 accordance with recognized national standards and consistent with
27 requirements of the public health and safety.

28 NEW SECTION. **Sec. 239.** This chapter does not affect the use of
29 records, obtained from the board, in any existing investigation or
30 action by any state agency. Nor does this chapter limit any existing
31 exchange of information between the board and other state agencies.

32 NEW SECTION. **Sec. 240.** (1) As used in this section, "emergency or
33 disaster" has the same meaning as in RCW 38.52.010.

1 (2) The board shall issue a retired volunteer medical worker
2 license to any applicant who:

3 (a) Has held an active license issued by the board no more than ten
4 years prior to applying for an initial license under this section;

5 (b) Does not have any current restrictions on the ability to obtain
6 a license for violations of this chapter; and

7 (c) Submits proof of registration as a volunteer with a local
8 organization for emergency services or management as defined by chapter
9 38.52 RCW.

10 (3) License holders under this section must be supervised and may
11 practice only those duties that correspond to the scope of their
12 emergency worker assignment not to exceed their scope of practice prior
13 to retirement.

14 (4) The board shall adopt rules and policies to implement this
15 section.

16 (5) The board shall establish standards for the renewal of licenses
17 issued under this section, including continuing competency
18 requirements.

19 (6) License holders under this section are subject to the
20 provisions of this chapter as they may apply to the issuance and denial
21 of credentials, unauthorized practice, and discipline for acts of
22 unprofessional conduct.

23 (7) Nothing in this section precludes a physician or physician
24 assistant who holds an active license from providing medical services
25 during an emergency or disaster.

26 NEW SECTION. **Sec. 241.** Any individual who applies for a license
27 or temporary practice permit or holds a license or temporary practice
28 permit and is prohibited from practicing medicine in another state
29 because of an act of unprofessional conduct that is substantially
30 equivalent to an act of unprofessional conduct prohibited by this
31 chapter is prohibited from practicing medicine in this state until
32 proceedings of the board have been completed under this chapter.

33 NEW SECTION. **Sec. 242.** (1) This chapter may be known and cited as
34 the medical disciplinary act.

35 (2) This chapter applies to any conduct, acts, or conditions
36 occurring on or after the effective date of this section.

1 (3) This chapter does not apply to or govern the construction of
2 and disciplinary action for any conduct, acts, or conditions occurring
3 prior to the effective date of this section. Such conduct, acts, or
4 conditions must be construed and disciplinary action taken according to
5 the provisions of law existing at the time of the occurrence in the
6 same manner as if this chapter had not been enacted.

7 **Medical Review Panel**

8 NEW SECTION. **Sec. 243.** There is created an independent medical
9 review panel for the state of Washington to be known as the Washington
10 state medical review panel. The panel shall consist of fourteen
11 members appointed by the governor who either previously served,
12 including as a pro tem member, on the former medical quality assurance
13 commission or the board, or are currently licensed to practice medicine
14 in the state of Washington under chapter 18.71 RCW. Members of the
15 panel shall include two physician assistants, four public members, and
16 eight physician members. Members of the initial panel may be appointed
17 to staggered terms of one to four years, and thereafter all terms of
18 appointment shall be for four years. There is not a limit as to the
19 number of former commission or board members that may serve on the
20 panel at any one time.

21 Prior to each disciplinary hearing a three-person hearing panel
22 shall be selected from the medical review panel to hear and rule on the
23 case. If the hearing is requested by a physician, then the hearing
24 panel shall consist of two physicians and one public panel member. If
25 the hearing is requested by a physician assistant, then the hearing
26 panel shall consist of one physician assistant, one physician, and one
27 public panel member.

28 A majority of the hearing panel shall make all determinations as to
29 findings of unprofessional conduct or other violations of the medical
30 disciplinary act, and determinations of final actions against the
31 licensee pursuant to section 217 of this act.

32 NEW SECTION. **Sec. 244.** The governor shall appoint three medical
33 law judges. The initial judges may be appointed to staggered terms of
34 two to six years, and thereafter all terms of appointment shall be for
35 six years. Each judge shall preside as acting judge for one four-month

1 term each year. As acting judge the medical law judge is responsible
2 for carrying out the duties and responsibilities set forth in this
3 section.

4 The judges must have the following minimum qualifications: Be
5 licensed to practice in the state of Washington, be in good standing
6 with the state bar, and have a minimum of five years' experience in
7 health law, including familiarity with medical disciplinary issues.
8 The ideal candidate will also have judicial experience as a pro tem
9 justice or other similar experience.

10 A medical law judge shall be present at all disciplinary hearings
11 to provide the hearing panel with assistance as necessary and shall
12 rule on all procedural, evidentiary, and other motions raised by the
13 parties. The medical law judge does not participate in the hearing
14 panel's deliberation or ruling process.

15 The medical law judge shall also:

16 (1) Schedule all disciplinary hearings as provided for in this
17 chapter;

18 (2) Rule on all procedural and other motions, issue subpoenas, and
19 administer oaths in connection with disciplinary hearings;

20 (3) Compel attendance of witnesses at disciplinary hearings;

21 (4) Sign off on all orders, stipulations, subpoena requests,
22 statements of charges, summary suspensions, or other actions taken by
23 the board or the medical review panel;

24 (5) Employ such administrative and clerical staff as necessary for
25 the enforcement of this chapter;

26 (6) Provide legal, administrative, and other assistance to the
27 medical review panel;

28 (7) Establish fees to witnesses in any disciplinary proceeding as
29 authorized by RCW 34.05.446.

30 NEW SECTION. **Sec. 245.** The board is responsible for funding the
31 functions and obligations of the medical review panel and medical law
32 judges under this chapter and ensuring that all activities of the
33 medical review panel and medical law judges remain independent from the
34 board's activities. The board, in collaboration with the panel, shall
35 adopt rules necessary for the medical review panel and medical law
36 judges to fulfill their obligations under this chapter. Compensation

1 of the panel, including the medical law judges, shall be determined by
2 the board.

3 Whenever the governor is satisfied that a member of the medical
4 review panel or a medical law judge has been guilty of neglect of duty,
5 misconduct, or malfeasance or misfeasance in office, the governor shall
6 file with the secretary of state a statement of the causes for and the
7 order of removal from office, and the secretary shall forthwith send a
8 certified copy of the statement of causes and order of removal to the
9 last known post office address of the member.

10 A vacancy on the medical review panel or as a medical law judge
11 shall be filled for the unexpired term by appointment by the governor
12 as set forth in section 244 of this act.

13 The members of the medical review panel and the medical law judges
14 are immune from suit in an action, civil or criminal, based on their
15 official acts performed in good faith as members of the medical review
16 panel or as medical law judges.

17 **Background Checks**

18 NEW SECTION. **Sec. 246.** (1) The board shall establish requirements
19 for each applicant for an initial license to obtain a state background
20 check through the state patrol prior to the issuance of any license.
21 The background check may be fingerprint-based at the discretion of the
22 department.

23 (2) The board shall specify those situations where a background
24 check under subsection (1) of this section is inadequate and an
25 applicant for an initial license must obtain an electronic fingerprint-
26 based national background check through the state patrol and federal
27 bureau of investigation. The board shall issue a temporary practice
28 permit to an applicant who must have a national background check
29 conducted if the background check under subsection (1) of this section
30 does not reveal a criminal record in Washington, and if the applicant
31 meets the provisions of RCW 18.130.075.

32 **PART III - MISCELLANEOUS PROVISIONS**

33 NEW SECTION. **Sec. 301.** (1) The medical quality assurance
34 commission is hereby abolished and its powers, duties, and functions

1 are hereby transferred to the medical board for safety and quality.
2 All references to the medical quality assurance commission in the
3 Revised Code of Washington shall be construed to mean the medical board
4 for safety and quality.

5 (2)(a) All reports, documents, surveys, books, records, files,
6 papers, or written material in the possession of the medical quality
7 assurance commission shall be delivered to the custody of the medical
8 board for safety and quality. All cabinets, furniture, office
9 equipment, motor vehicles, and other tangible property employed by the
10 medical quality assurance commission shall be made available to the
11 medical board for safety and quality. All funds, credits, or other
12 assets held by the medical quality assurance commission shall be
13 assigned to the medical board for safety and quality.

14 (b) Any appropriations made to the medical quality assurance
15 commission shall, on the effective date of this section, be transferred
16 and credited to the medical board for safety and quality.

17 (c) If any question arises as to the transfer of any personnel,
18 funds, books, documents, records, papers, files, equipment, or other
19 tangible property used or held in the exercise of the powers and the
20 performance of the duties and functions transferred, the director of
21 financial management shall make a determination as to the proper
22 allocation and certify the same to the state agencies concerned.

23 (3) All employees of the medical quality assurance commission are
24 transferred to the jurisdiction of the medical board for safety and
25 quality. All employees classified under chapter 41.06 RCW, the state
26 civil service law, are assigned to the medical board for safety and
27 quality to perform their usual duties upon the same terms as formerly,
28 without any loss of rights, subject to any action that may be
29 appropriate thereafter in accordance with the laws and rules governing
30 state civil service.

31 (4) All rules and all pending business before the medical quality
32 assurance commission shall be continued and acted upon by the medical
33 board for safety and quality. All existing contracts and obligations
34 shall remain in full force and shall be performed by the medical board
35 for safety and quality.

36 (5) The transfer of the powers, duties, functions, and personnel of
37 the medical quality assurance commission shall not affect the validity
38 of any act performed before the effective date of this section.

1 (6) If apportionments of budgeted funds are required because of the
2 transfers directed by this section, the director of financial
3 management shall certify the apportionments to the agencies affected,
4 the state auditor, and the state treasurer. Each of these shall make
5 the appropriate transfer and adjustments in funds and appropriation
6 accounts and equipment records in accordance with the certification.

7 (7) Nothing contained in this section may be construed to alter any
8 existing collective bargaining unit or the provisions of any existing
9 collective bargaining agreement until the agreement has expired or
10 until the bargaining unit has been modified by action of the public
11 employment relations commission as provided by law.

12 NEW SECTION. **Sec. 302.** (1) All powers, duties, and functions of
13 the department of health pertaining to licensing and disciplining of
14 physicians and physician assistants are transferred to the medical
15 board for safety and quality. All references to the secretary or the
16 department of health in the Revised Code of Washington shall be
17 construed to mean the medical board for safety and quality when
18 referring to the functions transferred in this section.

19 (2)(a) All reports, documents, surveys, books, records, files,
20 papers, or written material in the possession of the department of
21 health pertaining to the powers, functions, and duties transferred
22 shall be delivered to the custody of the medical board for safety and
23 quality. All cabinets, furniture, office equipment, motor vehicles,
24 and other tangible property employed by the department of health in
25 carrying out the powers, functions, and duties transferred shall be
26 made available to the medical board for safety and quality. All funds,
27 credits, or other assets held in connection with the powers, functions,
28 and duties transferred shall be assigned to the medical board for
29 safety and quality.

30 (b) Any appropriations made to the department of health for
31 carrying out the powers, functions, and duties transferred shall, on
32 the effective date of this section, be transferred and credited to the
33 medical board for safety and quality.

34 (c) Whenever any question arises as to the transfer of any
35 personnel, funds, books, documents, records, papers, files, equipment,
36 or other tangible property used or held in the exercise of the powers

1 and the performance of the duties and functions transferred, the
2 director of financial management shall make a determination as to the
3 proper allocation and certify the same to the state agencies concerned.

4 (3) All employees of the department of health engaged in performing
5 the powers, functions, and duties transferred are transferred to the
6 jurisdiction of the medical board for safety and quality. All
7 employees classified under chapter 41.06 RCW, the state civil service
8 law, are assigned to the medical board for safety and quality to
9 perform their usual duties upon the same terms as formerly, without any
10 loss of rights, subject to any action that may be appropriate
11 thereafter in accordance with the laws and rules governing state civil
12 service.

13 (4) All rules and all pending business before the department of
14 health pertaining to the powers, functions, and duties transferred
15 shall be continued and acted upon by the medical board for safety and
16 quality. All existing contracts and obligations shall remain in full
17 force and shall be performed by the medical board for safety and
18 quality.

19 (5) The transfer of the powers, duties, functions, and personnel of
20 the department of health shall not affect the validity of any act
21 performed before the effective date of this section.

22 (6) If apportionments of budgeted funds are required because of the
23 transfers directed by this section, the director of financial
24 management shall certify the apportionments to the agencies affected,
25 the state auditor, and the state treasurer. Each of these shall make
26 the appropriate transfer and adjustments in funds and appropriation
27 accounts and equipment records in accordance with the certification.

28 (7) Nothing contained in this section may be construed to alter any
29 existing collective bargaining unit or the provisions of any existing
30 collective bargaining agreement until the agreement has expired or
31 until the bargaining unit has been modified by action of the public
32 employment relations commission as provided by law.

33 **Sec. 303.** RCW 18.130.040 and 2007 c 269 s 17 and 2007 c 70 s 11
34 are each reenacted and amended to read as follows:

35 (1) This chapter applies only to the secretary and the boards and
36 commissions having jurisdiction in relation to the professions licensed

1 under the chapters specified in this section. This chapter does not
2 apply to any business or profession not licensed under the chapters
3 specified in this section.

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

6 (i) Dispensing opticians licensed and designated apprentices under
7 chapter 18.34 RCW;

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

9 (iii) Midwives licensed under chapter 18.50 RCW;

10 (iv) Ocularists licensed under chapter 18.55 RCW;

11 (v) Massage operators and businesses licensed under chapter 18.108
12 RCW;

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

14 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

17 (ix) Respiratory care practitioners licensed under chapter 18.89
18 RCW;

19 (x) Persons registered under chapter 18.19 RCW;

20 (xi) Persons licensed as mental health counselors, marriage and
21 family therapists, and social workers under chapter 18.225 RCW;

22 (xii) Persons registered as nursing pool operators under chapter
23 18.52C RCW;

24 (xiii) Nursing assistants registered or certified under chapter
25 18.88A RCW;

26 (xiv) Health care assistants certified under chapter 18.135 RCW;

27 (xv) Dietitians and nutritionists certified under chapter 18.138
28 RCW;

29 (xvi) Chemical dependency professionals certified under chapter
30 18.205 RCW;

31 (xvii) Sex offender treatment providers and certified affiliate sex
32 offender treatment providers certified under chapter 18.155 RCW;

33 (xviii) Persons licensed and certified under chapter 18.73 RCW or
34 RCW 18.71.205;

35 (xix) Denturists licensed under chapter 18.30 RCW;

36 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

37 (xxi) Surgical technologists registered under chapter 18.215 RCW;

38 (xxii) Recreational therapists; and

1 (xxiii) Animal massage practitioners certified under chapter 18.240
2 RCW.

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

5 (i) The podiatric medical board as established in chapter 18.22
6 RCW;

7 (ii) The chiropractic quality assurance commission as established
8 in chapter 18.25 RCW;

9 (iii) The dental quality assurance commission as established in
10 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
11 licenses and registrations issued under chapter 18.260 RCW;

12 (iv) The board of hearing and speech as established in chapter
13 18.35 RCW;

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

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

18 (vii) The board of osteopathic medicine and surgery as established
19 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
20 18.57A RCW;

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

23 ~~(ix) ((The medical quality assurance commission as established in
24 chapter 18.71 RCW governing licenses and registrations issued under
25 chapters 18.71 and 18.71A RCW;~~

26 ~~(x))~~) The board of physical therapy as established in chapter 18.74
27 RCW;

28 ~~((~~(xi)~~))~~ (x) The board of occupational therapy practice as
29 established in chapter 18.59 RCW;

30 ~~((~~(xii)~~))~~ (xi) The nursing care quality assurance commission as
31 established in chapter 18.79 RCW governing licenses and registrations
32 issued under that chapter;

33 ~~((~~(xiii)~~))~~ (xii) The examining board of psychology and its
34 disciplinary committee as established in chapter 18.83 RCW; and

35 ~~((~~(xiv)~~))~~ (xiii) The veterinary board of governors as established
36 in chapter 18.92 RCW.

37 (3) In addition to the authority to discipline license holders, the
38 disciplining authority has the authority to grant or deny licenses

1 based on the conditions and criteria established in this chapter and
2 the chapters specified in subsection (2) of this section. This chapter
3 also governs any investigation, hearing, or proceeding relating to
4 denial of licensure or issuance of a license conditioned on the
5 applicant's compliance with an order entered pursuant to RCW 18.130.160
6 by the disciplining authority.

7 (4) All disciplining authorities shall adopt procedures to ensure
8 substantially consistent application of this chapter, the Uniform
9 Disciplinary Act, among the disciplining authorities listed in
10 subsection (2) of this section.

11 **Sec. 304.** RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and
12 2007 c 70 s 11 are each reenacted and amended to read as follows:

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

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

20 (i) Dispensing opticians licensed and designated apprentices under
21 chapter 18.34 RCW;

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

23 (iii) Midwives licensed under chapter 18.50 RCW;

24 (iv) Ocularists licensed under chapter 18.55 RCW;

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

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

28 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

31 (ix) Respiratory care practitioners licensed under chapter 18.89
32 RCW;

33 (x) Persons registered under chapter 18.19 RCW;

34 (xi) Persons licensed as mental health counselors, marriage and
35 family therapists, and social workers under chapter 18.225 RCW;

36 (xii) Persons registered as nursing pool operators under chapter
37 18.52C RCW;

1 (xiii) Nursing assistants registered or certified under chapter
2 18.88A RCW;

3 (xiv) Health care assistants certified under chapter 18.135 RCW;

4 (xv) Dietitians and nutritionists certified under chapter 18.138
5 RCW;

6 (xvi) Chemical dependency professionals certified under chapter
7 18.205 RCW;

8 (xvii) Sex offender treatment providers and certified affiliate sex
9 offender treatment providers certified under chapter 18.155 RCW;

10 (xviii) Persons licensed and certified under chapter 18.73 RCW or
11 RCW 18.71.205;

12 (xix) Denturists licensed under chapter 18.30 RCW;

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

14 (xxi) Surgical technologists registered under chapter 18.215 RCW;

15 (xxii) Recreational therapists;

16 (xxiii) Animal massage practitioners certified under chapter 18.240
17 RCW; and

18 (xxiv) Athletic trainers licensed under chapter 18.250 RCW.

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

21 (i) The podiatric medical board as established in chapter 18.22
22 RCW;

23 (ii) The chiropractic quality assurance commission as established
24 in chapter 18.25 RCW;

25 (iii) The dental quality assurance commission as established in
26 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
27 licenses and registrations issued under chapter 18.260 RCW;

28 (iv) The board of hearing and speech as established in chapter
29 18.35 RCW;

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

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

34 (vii) The board of osteopathic medicine and surgery as established
35 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
36 18.57A RCW;

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

1 ~~((ix))~~ ~~((The medical quality assurance commission as established in~~
2 ~~chapter 18.71 RCW governing licenses and registrations issued under~~
3 ~~chapters 18.71 and 18.71A RCW;~~

4 ~~((x))~~) The board of physical therapy as established in chapter 18.74
5 RCW;

6 ~~((xi))~~) (x) The board of occupational therapy practice as
7 established in chapter 18.59 RCW;

8 ~~((xii))~~) (xi) The nursing care quality assurance commission as
9 established in chapter 18.79 RCW governing licenses and registrations
10 issued under that chapter;

11 ~~((xiii))~~) (xii) The examining board of psychology and its
12 disciplinary committee as established in chapter 18.83 RCW; and

13 ~~((xiv))~~) (xiii) The veterinary board of governors as established
14 in chapter 18.92 RCW.

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

23 (4) All disciplining authorities shall adopt procedures to ensure
24 substantially consistent application of this chapter, the Uniform
25 Disciplinary Act, among the disciplining authorities listed in
26 subsection (2) of this section.

27 **Sec. 305.** RCW 18.50.115 and 1994 sp.s. c 9 s 707 are each amended
28 to read as follows:

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

35 The secretary, after consultation with representatives of the
36 midwife advisory committee, the board of pharmacy, and the medical

1 ((~~quality assurance commission~~)) board for safety and quality, may
2 adopt rules that authorize licensed midwives to purchase and use legend
3 drugs and devices in addition to the drugs authorized in this chapter.

4 **Sec. 306.** RCW 69.41.030 and 2003 c 142 s 3 and 2003 c 53 s 323 are
5 each reenacted and amended to read as follows:

6 (1) It shall be unlawful for any person to sell, deliver, or
7 possess any legend drug except upon the order or prescription of a
8 physician under chapter 18.71 RCW, an osteopathic physician and surgeon
9 under chapter 18.57 RCW, an optometrist licensed under chapter 18.53
10 RCW who is certified by the optometry board under RCW 18.53.010, a
11 dentist under chapter 18.32 RCW, a podiatric physician and surgeon
12 under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a
13 commissioned medical or dental officer in the United States armed
14 forces or public health service in the discharge of his or her official
15 duties, a duly licensed physician or dentist employed by the veterans
16 administration in the discharge of his or her official duties, a
17 registered nurse or advanced registered nurse practitioner under
18 chapter 18.79 RCW when authorized by the nursing care quality assurance
19 commission, an osteopathic physician assistant under chapter 18.57A RCW
20 when authorized by the board of osteopathic medicine and surgery, a
21 physician assistant under chapter 18.71A RCW when authorized by the
22 medical ((~~quality assurance commission~~)) board for safety and quality,
23 a physician licensed to practice medicine and surgery or a physician
24 licensed to practice osteopathic medicine and surgery, a dentist
25 licensed to practice dentistry, a podiatric physician and surgeon
26 licensed to practice podiatric medicine and surgery, or a veterinarian
27 licensed to practice veterinary medicine, in any province of Canada
28 which shares a common border with the state of Washington or in any
29 state of the United States: PROVIDED, HOWEVER, That the above
30 provisions shall not apply to sale, delivery, or possession by drug
31 wholesalers or drug manufacturers, or their agents or employees, or to
32 any practitioner acting within the scope of his or her license, or to
33 a common or contract carrier or warehouseman, or any employee thereof,
34 whose possession of any legend drug is in the usual course of business
35 or employment: PROVIDED FURTHER, That nothing in this chapter or
36 chapter 18.64 RCW shall prevent a family planning clinic that is under
37 contract with the department of social and health services from

1 selling, delivering, possessing, and dispensing commercially
2 prepackaged oral contraceptives prescribed by authorized, licensed
3 health care practitioners.

4 (2)(a) A violation of this section involving the sale, delivery, or
5 possession with intent to sell or deliver is a class B felony
6 punishable according to chapter 9A.20 RCW.

7 (b) A violation of this section involving possession is a
8 misdemeanor.

9 **Sec. 307.** RCW 69.45.010 and 1994 sp.s. c 9 s 738 are each amended
10 to read as follows:

11 The definitions in this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

4 (10) "Practitioner" means a physician under chapter 18.71 RCW, an
5 osteopathic physician or an osteopathic physician and surgeon under
6 chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric
7 physician and surgeon under chapter 18.22 RCW, a veterinarian under
8 chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned
9 medical or dental officer in the United States armed forces or the
10 public health service in the discharge of his or her official duties,
11 a duly licensed physician or dentist employed by the veterans
12 administration in the discharge of his or her official duties, a
13 registered nurse or advanced registered nurse practitioner under
14 chapter 18.79 RCW when authorized to prescribe by the nursing care
15 quality assurance commission, an osteopathic physician assistant under
16 chapter 18.57A RCW when authorized by the board of osteopathic medicine
17 and surgery, or a physician assistant under chapter 18.71A RCW when
18 authorized by the medical (~~quality assurance commission~~) board for
19 safety and quality.

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

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

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

28 (14) "Secretary" means the secretary of health or the secretary's
29 designee.

30 **Sec. 308.** RCW 69.50.402 and 2003 c 53 s 338 are each amended to
31 read as follows:

32 (1) It is unlawful for any person:

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

35 (b) Who is a registrant, to manufacture a controlled substance not
36 authorized by his or her registration, or to distribute or dispense a

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

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

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

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

11 except for the treatment of narcolepsy or for the treatment of
12 hyperkinesia, or for the treatment of drug-induced brain dysfunction,
13 or for the treatment of epilepsy, or for the differential diagnostic
14 psychiatric evaluation of depression, or for the treatment of
15 depression shown to be refractory to other therapeutic modalities, or
16 for the clinical investigation of the effects of such drugs or
17 compounds, in which case an investigative protocol therefor shall have
18 been submitted to and reviewed and approved by the state board of
19 pharmacy before the investigation has been begun: PROVIDED, That the
20 board of pharmacy, in consultation with the medical (~~quality assurance~~
21 ~~commission~~) board for safety and quality and the osteopathic
22 disciplinary board, may establish by rule, pursuant to chapter 34.05
23 RCW, disease states or conditions in addition to those listed in this
24 subsection for the treatment of which Schedule II nonnarcotic
25 stimulants may be prescribed, ordered, dispensed, administered,
26 supplied, or given to patients by practitioners: AND PROVIDED,
27 FURTHER, That investigations by the board of pharmacy of abuse of
28 prescriptive authority by physicians, licensed pursuant to chapter
29 18.71 RCW, pursuant to subsection (1)(c) of this section shall be done
30 in consultation with the medical (~~quality assurance commission~~) board
31 for safety and quality;

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

35 (e) To refuse an entry into any premises for any inspection
36 authorized by this chapter; or

37 (f) Knowingly to keep or maintain any store, shop, warehouse,
38 dwelling, building, vehicle, boat, aircraft, or other structure or

1 place, which is resorted to by persons using controlled substances in
2 violation of this chapter for the purpose of using these substances, or
3 which is used for keeping or selling them in violation of this chapter.

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

7 **Sec. 309.** RCW 69.51A.010 and 2007 c 371 s 3 are each amended to
8 read as follows:

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

11 (1) "Designated provider" means a person who:

12 (a) Is eighteen years of age or older;

13 (b) Has been designated in writing by a patient to serve as a
14 designated provider under this chapter;

15 (c) Is prohibited from consuming marijuana obtained for the
16 personal, medical use of the patient for whom the individual is acting
17 as designated provider; and

18 (d) Is the designated provider to only one patient at any one time.

19 (2) "Medical use of marijuana" means the production, possession, or
20 administration of marijuana, as defined in RCW 69.50.101(q), for the
21 exclusive benefit of a qualifying patient in the treatment of his or
22 her terminal or debilitating illness.

23 (3) "Qualifying patient" means a person who:

24 (a) Is a patient of a physician licensed under chapter 18.71 or
25 18.57 RCW;

26 (b) Has been diagnosed by that physician as having a terminal or
27 debilitating medical condition;

28 (c) Is a resident of the state of Washington at the time of such
29 diagnosis;

30 (d) Has been advised by that physician about the risks and benefits
31 of the medical use of marijuana; and

32 (e) Has been advised by that physician that they may benefit from
33 the medical use of marijuana.

34 (4) "Terminal or debilitating medical condition" means:

35 (a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis,
36 epilepsy or other seizure disorder, or spasticity disorders; or

1 (b) Intractable pain, limited for the purpose of this chapter to
2 mean pain unrelieved by standard medical treatments and medications; or

3 (c) Glaucoma, either acute or chronic, limited for the purpose of
4 this chapter to mean increased intraocular pressure unrelieved by
5 standard treatments and medications; or

6 (d) Crohn's disease with debilitating symptoms unrelieved by
7 standard treatments or medications; or

8 (e) Hepatitis C with debilitating nausea or intractable pain
9 unrelieved by standard treatments or medications; or

10 (f) Diseases, including anorexia, which result in nausea, vomiting,
11 wasting, appetite loss, cramping, seizures, muscle spasms, or
12 spasticity, when these symptoms are unrelieved by standard treatments
13 or medications; or

14 (g) Any other medical condition duly approved by the Washington
15 state medical (~~(quality assurance commission)~~) board for safety and
16 quality in consultation with the board of osteopathic medicine and
17 surgery as directed in this chapter.

18 (5) "Valid documentation" means:

19 (a) A statement signed by a qualifying patient's physician, or a
20 copy of the qualifying patient's pertinent medical records, which
21 states that, in the physician's professional opinion, the patient may
22 benefit from the medical use of marijuana;

23 (b) Proof of identity such as a Washington state driver's license
24 or identicard, as defined in RCW 46.20.035; and

25 (c) A copy of the physician statement described in (a) of this
26 subsection shall have the same force and effect as the signed original.

27 **Sec. 310.** RCW 69.51A.070 and 2007 c 371 s 7 are each amended to
28 read as follows:

29 The Washington state medical (~~(quality assurance commission)~~) board
30 for safety and quality in consultation with the board of osteopathic
31 medicine and surgery, or other appropriate agency as designated by the
32 governor, shall accept for consideration petitions submitted to add
33 terminal or debilitating conditions to those included in this chapter.
34 In considering such petitions, the Washington state medical (~~(quality~~
35 ~~assurance commission)~~) board for safety and quality in consultation
36 with the board of osteopathic medicine and surgery shall include public
37 notice of, and an opportunity to comment in a public hearing upon, such

1 petitions. The Washington state medical (~~quality assurance~~
2 ~~commission~~) board for safety and quality in consultation with the
3 board of osteopathic medicine and surgery shall, after hearing, approve
4 or deny such petitions within one hundred eighty days of submission.
5 The approval or denial of such a petition shall be considered a final
6 agency action, subject to judicial review.

7 **Sec. 311.** RCW 70.41.200 and 2007 c 261 s 3 are each amended to
8 read as follows:

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

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

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

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

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

31 (e) The maintenance and continuous collection of information
32 concerning the hospital's experience with negative health care outcomes
33 and incidents injurious to patients including health care-associated
34 infections as defined in RCW 43.70.056, patient grievances,
35 professional liability premiums, settlements, awards, costs incurred by
36 the hospital for patient injury prevention, and safety improvement
37 activities;

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

5 (g) Education programs dealing with quality improvement, patient
6 safety, medication errors, injury prevention, infection control, staff
7 responsibility to report professional misconduct, the legal aspects of
8 patient care, improved communication with patients, and causes of
9 malpractice claims for staff personnel engaged in patient care
10 activities; and

11 (h) Policies to ensure compliance with the reporting requirements
12 of this section.

13 (2) Any person who, in substantial good faith, provides information
14 to further the purposes of the quality improvement and medical
15 malpractice prevention program or who, in substantial good faith,
16 participates on the quality improvement committee shall not be subject
17 to an action for civil damages or other relief as a result of such
18 activity. Any person or entity participating in a coordinated quality
19 improvement program that, in substantial good faith, shares information
20 or documents with one or more other programs, committees, or boards
21 under subsection (8) of this section is not subject to an action for
22 civil damages or other relief as a result of the activity. For the
23 purposes of this section, sharing information is presumed to be in
24 substantial good faith. However, the presumption may be rebutted upon
25 a showing of clear, cogent, and convincing evidence that the
26 information shared was knowingly false or deliberately misleading.

27 (3) Information and documents, including complaints and incident
28 reports, created specifically for, and collected and maintained by, a
29 quality improvement committee are not subject to review or disclosure,
30 except as provided in this section, or discovery or introduction into
31 evidence in any civil action, and no person who was in attendance at a
32 meeting of such committee or who participated in the creation,
33 collection, or maintenance of information or documents specifically for
34 the committee shall be permitted or required to testify in any civil
35 action as to the content of such proceedings or the documents and
36 information prepared specifically for the committee. This subsection
37 does not preclude: (a) In any civil action, the discovery of the
38 identity of persons involved in the medical care that is the basis of

1 the civil action whose involvement was independent of any quality
2 improvement activity; (b) in any civil action, the testimony of any
3 person concerning the facts which form the basis for the institution of
4 such proceedings of which the person had personal knowledge acquired
5 independently of such proceedings; (c) in any civil action by a health
6 care provider regarding the restriction or revocation of that
7 individual's clinical or staff privileges, introduction into evidence
8 information collected and maintained by quality improvement committees
9 regarding such health care provider; (d) in any civil action,
10 disclosure of the fact that staff privileges were terminated or
11 restricted, including the specific restrictions imposed, if any and the
12 reasons for the restrictions; or (e) in any civil action, discovery and
13 introduction into evidence of the patient's medical records required by
14 regulation of the department of health to be made regarding the care
15 and treatment received.

16 (4) Each quality improvement committee shall, on at least a
17 semiannual basis, report to the governing board of the hospital in
18 which the committee is located. The report shall review the quality
19 improvement activities conducted by the committee, and any actions
20 taken as a result of those activities.

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

23 (6) The medical (~~(quality assurance commission)~~) board for safety
24 and quality or the board of osteopathic medicine and surgery, as
25 appropriate, may review and audit the records of committee decisions in
26 which a physician's privileges are terminated or restricted. Each
27 hospital shall produce and make accessible to the commission or board
28 the appropriate records and otherwise facilitate the review and audit.
29 Information so gained shall not be subject to the discovery process and
30 confidentiality shall be respected as required by subsection (3) of
31 this section. Failure of a hospital to comply with this subsection is
32 punishable by a civil penalty not to exceed two hundred fifty dollars.

33 (7) The department, the joint commission on accreditation of health
34 care organizations, and any other accrediting organization may review
35 and audit the records of a quality improvement committee or peer review
36 committee in connection with their inspection and review of hospitals.
37 Information so obtained shall not be subject to the discovery process,
38 and confidentiality shall be respected as required by subsection (3) of

1 this section. Each hospital shall produce and make accessible to the
2 department the appropriate records and otherwise facilitate the review
3 and audit.

4 (8) A coordinated quality improvement program may share information
5 and documents, including complaints and incident reports, created
6 specifically for, and collected and maintained by, a quality
7 improvement committee or a peer review committee under RCW 4.24.250
8 with one or more other coordinated quality improvement programs
9 maintained in accordance with this section or RCW 43.70.510, a quality
10 assurance committee maintained in accordance with RCW 18.20.390 or
11 74.42.640, or a peer review committee under RCW 4.24.250, for the
12 improvement of the quality of health care services rendered to patients
13 and the identification and prevention of medical malpractice. The
14 privacy protections of chapter 70.02 RCW and the federal health
15 insurance portability and accountability act of 1996 and its
16 implementing regulations apply to the sharing of individually
17 identifiable patient information held by a coordinated quality
18 improvement program. Any rules necessary to implement this section
19 shall meet the requirements of applicable federal and state privacy
20 laws. Information and documents disclosed by one coordinated quality
21 improvement program to another coordinated quality improvement program
22 or a peer review committee under RCW 4.24.250 and any information and
23 documents created or maintained as a result of the sharing of
24 information and documents shall not be subject to the discovery process
25 and confidentiality shall be respected as required by subsection (3) of
26 this section, RCW 18.20.390 (6) and (8), 74.42.640 (7) and (9), and
27 4.24.250.

28 (9) A hospital that operates a nursing home as defined in RCW
29 18.51.010 may conduct quality improvement activities for both the
30 hospital and the nursing home through a quality improvement committee
31 under this section, and such activities shall be subject to the
32 provisions of subsections (2) through (8) of this section.

33 (10) Violation of this section shall not be considered negligence
34 per se.

35 **Sec. 312.** RCW 70.41.200 and 2007 c 273 s 22 and 2007 c 261 s 3 are
36 each reenacted and amended to read as follows:

37 (1) Every hospital shall maintain a coordinated quality improvement

1 program for the improvement of the quality of health care services
2 rendered to patients and the identification and prevention of medical
3 malpractice. The program shall include at least the following:

4 (a) The establishment of a quality improvement committee with the
5 responsibility to review the services rendered in the hospital, both
6 retrospectively and prospectively, in order to improve the quality of
7 medical care of patients and to prevent medical malpractice. The
8 committee shall oversee and coordinate the quality improvement and
9 medical malpractice prevention program and shall ensure that
10 information gathered pursuant to the program is used to review and to
11 revise hospital policies and procedures;

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

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

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

22 (e) The maintenance and continuous collection of information
23 concerning the hospital's experience with negative health care outcomes
24 and incidents injurious to patients including health care-associated
25 infections as defined in RCW 43.70.056, patient grievances,
26 professional liability premiums, settlements, awards, costs incurred by
27 the hospital for patient injury prevention, and safety improvement
28 activities;

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

33 (g) Education programs dealing with quality improvement, patient
34 safety, medication errors, injury prevention, infection control, staff
35 responsibility to report professional misconduct, the legal aspects of
36 patient care, improved communication with patients, and causes of
37 malpractice claims for staff personnel engaged in patient care
38 activities; and

1 (h) Policies to ensure compliance with the reporting requirements
2 of this section.

3 (2) Any person who, in substantial good faith, provides information
4 to further the purposes of the quality improvement and medical
5 malpractice prevention program or who, in substantial good faith,
6 participates on the quality improvement committee shall not be subject
7 to an action for civil damages or other relief as a result of such
8 activity. Any person or entity participating in a coordinated quality
9 improvement program that, in substantial good faith, shares information
10 or documents with one or more other programs, committees, or boards
11 under subsection (8) of this section is not subject to an action for
12 civil damages or other relief as a result of the activity. For the
13 purposes of this section, sharing information is presumed to be in
14 substantial good faith. However, the presumption may be rebutted upon
15 a showing of clear, cogent, and convincing evidence that the
16 information shared was knowingly false or deliberately misleading.

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

1 restricted, including the specific restrictions imposed, if any and the
2 reasons for the restrictions; or (e) in any civil action, discovery and
3 introduction into evidence of the patient's medical records required by
4 regulation of the department of health to be made regarding the care
5 and treatment received.

6 (4) Each quality improvement committee shall, on at least a
7 semiannual basis, report to the governing board of the hospital in
8 which the committee is located. The report shall review the quality
9 improvement activities conducted by the committee, and any actions
10 taken as a result of those activities.

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

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

23 (7) The department, the joint commission on accreditation of health
24 care organizations, and any other accrediting organization may review
25 and audit the records of a quality improvement committee or peer review
26 committee in connection with their inspection and review of hospitals.
27 Information so obtained shall not be subject to the discovery process,
28 and confidentiality shall be respected as required by subsection (3) of
29 this section. Each hospital shall produce and make accessible to the
30 department the appropriate records and otherwise facilitate the review
31 and audit.

32 (8) A coordinated quality improvement program may share information
33 and documents, including complaints and incident reports, created
34 specifically for, and collected and maintained by, a quality
35 improvement committee or a peer review committee under RCW 4.24.250
36 with one or more other coordinated quality improvement programs
37 maintained in accordance with this section or RCW 43.70.510, a
38 coordinated quality improvement committee maintained by an ambulatory

1 surgical facility under RCW 70.230.070, a quality assurance committee
2 maintained in accordance with RCW 18.20.390 or 74.42.640, or a peer
3 review committee under RCW 4.24.250, for the improvement of the quality
4 of health care services rendered to patients and the identification and
5 prevention of medical malpractice. The privacy protections of chapter
6 70.02 RCW and the federal health insurance portability and
7 accountability act of 1996 and its implementing regulations apply to
8 the sharing of individually identifiable patient information held by a
9 coordinated quality improvement program. Any rules necessary to
10 implement this section shall meet the requirements of applicable
11 federal and state privacy laws. Information and documents disclosed by
12 one coordinated quality improvement program to another coordinated
13 quality improvement program or a peer review committee under RCW
14 4.24.250 and any information and documents created or maintained as a
15 result of the sharing of information and documents shall not be subject
16 to the discovery process and confidentiality shall be respected as
17 required by subsection (3) of this section, RCW 18.20.390 (6) and (8),
18 74.42.640 (7) and (9), and 4.24.250.

19 (9) A hospital that operates a nursing home as defined in RCW
20 18.51.010 may conduct quality improvement activities for both the
21 hospital and the nursing home through a quality improvement committee
22 under this section, and such activities shall be subject to the
23 provisions of subsections (2) through (8) of this section.

24 (10) Violation of this section shall not be considered negligence
25 per se.

26 **Sec. 313.** RCW 70.41.230 and 1994 sp.s. c 9 s 744 are each amended
27 to read as follows:

28 (1) Prior to granting or renewing clinical privileges or
29 association of any physician or hiring a physician, a hospital or
30 facility approved pursuant to this chapter shall request from the
31 physician and the physician shall provide the following information:

32 (a) The name of any hospital or facility with or at which the
33 physician had or has any association, employment, privileges, or
34 practice;

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

1 (c) Any pending professional medical misconduct proceedings or any
2 pending medical malpractice actions in this state or another state, the
3 substance of the allegations in the proceedings or actions, and any
4 additional information concerning the proceedings or actions as the
5 physician deems appropriate;

6 (d) The substance of the findings in the actions or proceedings and
7 any additional information concerning the actions or proceedings as the
8 physician deems appropriate;

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

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

14 (2) Prior to granting privileges or association to any physician or
15 hiring a physician, a hospital or facility approved pursuant to this
16 chapter shall request from any hospital with or at which the physician
17 had or has privileges, was associated, or was employed, the following
18 information concerning the physician:

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

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

24 (c) Any information required to be reported by hospitals pursuant
25 to RCW 18.71.0195.

26 (3) The medical (~~quality assurance commission~~) board for safety
27 and quality shall be advised within thirty days of the name of any
28 physician denied staff privileges, association, or employment on the
29 basis of adverse findings under subsection (1) of this section.

30 (4) A hospital or facility that receives a request for information
31 from another hospital or facility pursuant to subsections (1) and (2)
32 of this section shall provide such information concerning the physician
33 in question to the extent such information is known to the hospital or
34 facility receiving such a request, including the reasons for
35 suspension, termination, or curtailment of employment or privileges at
36 the hospital or facility. A hospital, facility, or other person
37 providing such information in good faith is not liable in any civil
38 action for the release of such information.

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

27 (6) Hospitals shall be granted access to information held by the
28 medical (~~(quality assurance commission)~~) board for safety and quality
29 and the board of osteopathic medicine and surgery pertinent to
30 decisions of the hospital regarding credentialing and recredentialing
31 of practitioners.

32 (7) Violation of this section shall not be considered negligence
33 per se.

34 **Sec. 314.** RCW 74.09.290 and 1994 sp.s. c 9 s 749 are each amended
35 to read as follows:

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

1 (1) Conduct audits and investigations of providers of medical and
2 other services furnished pursuant to this chapter, except that the
3 Washington state medical (~~(quality assurance commission)~~) board for
4 safety and quality shall generally serve in an advisory capacity to the
5 secretary in the conduct of audits or investigations of physicians.
6 Any overpayment discovered as a result of an audit of a provider under
7 this authority shall be offset by any underpayments discovered in that
8 same audit sample. In order to determine the provider's actual, usual,
9 customary, or prevailing charges, the secretary may examine such random
10 representative records as necessary to show accounts billed and
11 accounts received except that in the conduct of such examinations,
12 patient names, other than public assistance applicants or recipients,
13 shall not be noted, copied, or otherwise made available to the
14 department. In order to verify costs incurred by the department for
15 treatment of public assistance applicants or recipients, the secretary
16 may examine patient records or portions thereof in connection with
17 services to such applicants or recipients rendered by a health care
18 provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200,
19 18.83.110, or any other statute which may make or purport to make such
20 records privileged or confidential: PROVIDED, That no original patient
21 records shall be removed from the premises of the health care provider,
22 and that the disclosure of any records or information by the department
23 of social and health services is prohibited and shall be punishable as
24 a class C felony according to chapter 9A.20 RCW, unless such disclosure
25 is directly connected to the official purpose for which the records or
26 information were obtained: PROVIDED FURTHER, That the disclosure of
27 patient information as required under this section shall not subject
28 any physician or other health services provider to any liability for
29 breach of any confidential relationship between the provider and the
30 patient, but no evidence resulting from such disclosure may be used in
31 any civil, administrative, or criminal proceeding against the patient
32 unless a waiver of the applicable evidentiary privilege is obtained:
33 PROVIDED FURTHER, That the secretary shall destroy all copies of
34 patient medical records in their possession upon completion of the
35 audit, investigation or proceedings;

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

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

3 (4) Adopt, promulgate, amend, and repeal administrative rules, in
4 accordance with the Administrative Procedure Act, chapter 34.05 RCW, to
5 carry out the policies and purposes of RCW 74.09.200 through 74.09.290.

6 **Sec. 315.** RCW 74.42.230 and 1994 sp.s. c 9 s 751 are each amended
7 to read as follows:

8 (1) The resident's attending or staff physician or authorized
9 practitioner approved by the attending physician shall order all
10 medications for the resident. The order may be oral or written and
11 shall be limited by time. An "authorized practitioner," as used in
12 this section, is a registered nurse under chapter 18.79 RCW when
13 authorized by the nursing care quality assurance commission, an
14 osteopathic physician assistant under chapter 18.57A RCW when
15 authorized by the committee of osteopathic examiners, or a physician
16 assistant under chapter 18.71A RCW when authorized by the medical
17 (~~quality assurance commission~~) board for safety and quality.

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

23 NEW SECTION. **Sec. 316.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 18.71.401 (Funds collected--Where deposited) and 1997 c 79
26 s 1; and

27 (2) RCW 18.71.420 (Allocation of all appropriated funds) and 1991
28 c 3 s 171 & 1983 c 71 s 3.

29 NEW SECTION. **Sec. 317.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 318.** Sections 130 through 138 of this act are
34 each added to chapter 18.71 RCW.

1 NEW SECTION. **Sec. 319.** Sections 201 through 246 of this act
2 constitute a new chapter in Title 18 RCW.

3 NEW SECTION. **Sec. 320.** Part headings and subheadings used in this
4 act are not any part of the law.

5 NEW SECTION. **Sec. 321.** Sections 105, 109, 311, and 313 of this
6 act expire July 1, 2009.

7 NEW SECTION. **Sec. 322.** Sections 106, 110, 312, and 314 of this
8 act take effect July 1, 2009.

9 NEW SECTION. **Sec. 323.** Section 303 of this act expires July 1,
10 2008.

11 NEW SECTION. **Sec. 324.** Section 304 of this act takes effect July
12 1, 2008.

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