
SUBSTITUTE SENATE BILL 6458

State of Washington

60th Legislature

2008 Regular Session

By Senate Ways & Means (originally sponsored by Senators Keiser, Shin, and Kohl-Welles; by request of Governor Gregoire)

READ FIRST TIME 02/12/08.

1 AN ACT Relating to regulation of health professionals; amending RCW
2 18.130.050, 18.130.080, 18.130.140, 18.130.150, 18.130.165, 18.130.170,
3 18.130.172, 18.130.180, 9.96A.020, 9.95.240, 43.43.825, 18.71.0191, and
4 43.70.240; reenacting and amending RCW 18.130.040, 18.130.040, and
5 18.130.160; adding new sections to chapter 18.130 RCW; adding a new
6 section to chapter 18.71 RCW; providing an effective date; and
7 providing an expiration date.

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

9 **Sec. 1.** RCW 18.130.040 and 2007 c 269 s 17 and 2007 c 70 s 11 are
10 each reenacted and amended to read as follows:

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

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

18 (i) Dispensing opticians licensed and designated apprentices under
19 chapter 18.34 RCW;

1 (ii) Naturopaths licensed under chapter 18.36A RCW;
2 (iii) Midwives licensed under chapter 18.50 RCW;
3 (iv) Ocularists licensed under chapter 18.55 RCW;
4 (v) Massage operators and businesses licensed under chapter 18.108
5 RCW;
6 (vi) Dental hygienists licensed under chapter 18.29 RCW;
7 (vii) Acupuncturists licensed under chapter 18.06 RCW;
8 (viii) Radiologic technologists certified and X-ray technicians
9 registered under chapter 18.84 RCW;
10 (ix) Respiratory care practitioners licensed under chapter 18.89
11 RCW;
12 (x) Persons registered under chapter 18.19 RCW;
13 (xi) Persons licensed as mental health counselors, marriage and
14 family therapists, and social workers under chapter 18.225 RCW;
15 (xii) Persons registered as nursing pool operators under chapter
16 18.52C RCW;
17 (xiii) Nursing assistants registered or certified under chapter
18 18.88A RCW;
19 (xiv) Health care assistants certified under chapter 18.135 RCW;
20 (xv) Dietitians and nutritionists certified under chapter 18.138
21 RCW;
22 (xvi) Chemical dependency professionals certified under chapter
23 18.205 RCW;
24 (xvii) Sex offender treatment providers and certified affiliate sex
25 offender treatment providers certified under chapter 18.155 RCW;
26 (xviii) Persons licensed and certified under chapter 18.73 RCW or
27 RCW 18.71.205;
28 (xix) Denturists licensed under chapter 18.30 RCW;
29 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;
30 (xxi) Surgical technologists registered under chapter 18.215 RCW;
31 (xxii) Recreational therapists; and
32 (xxiii) Animal massage practitioners certified under chapter 18.240
33 RCW.
34 (b) The boards and commissions having authority under this chapter
35 are as follows:
36 (i) The podiatric medical board as established in chapter 18.22
37 RCW;

1 (ii) The chiropractic quality assurance commission as established
2 in chapter 18.25 RCW;

3 (iii) The dental quality assurance commission as established in
4 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
5 licenses and registrations issued under chapter 18.260 RCW;

6 (iv) The board of hearing and speech as established in chapter
7 18.35 RCW;

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

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

12 (vii) The board of osteopathic medicine and surgery as established
13 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
14 18.57A RCW;

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

17 (ix) The medical quality assurance commission as established in
18 chapter 18.71 RCW governing licenses and registrations issued under
19 chapters 18.71 and 18.71A RCW;

20 (x) The board of physical therapy as established in chapter 18.74
21 RCW;

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

24 (xii) The nursing care quality assurance commission as established
25 in chapter 18.79 RCW governing licenses and registrations issued under
26 that chapter;

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

29 (xiv) The veterinary board of governors as established in chapter
30 18.92 RCW.

31 (3) In addition to the authority to discipline license holders, the
32 disciplining authority has the authority to grant or deny licenses
33 ~~((based on the conditions and criteria established in this chapter and~~
34 ~~the chapters specified in subsection (2) of this section. This chapter~~
35 ~~also governs any investigation, hearing, or proceeding relating to~~
36 ~~denial of licensure or issuance of a license conditioned on the~~
37 ~~applicant's compliance with an order entered pursuant to RCW 18.130.160~~

1 ~~by~~). The disciplining authority may also grant a license subject to
2 conditions.

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

7 **Sec. 2.** RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and
8 2007 c 70 s 11 are each reenacted and amended to read as follows:

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

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

16 (i) Dispensing opticians licensed and designated apprentices under
17 chapter 18.34 RCW;

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

19 (iii) Midwives licensed under chapter 18.50 RCW;

20 (iv) Ocularists licensed under chapter 18.55 RCW;

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

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

24 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

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

29 (x) Persons registered under chapter 18.19 RCW;

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

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

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

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

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

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

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

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

9 (xix) Denturists licensed under chapter 18.30 RCW;

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

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

12 (xxii) Recreational therapists;

13 (xxiii) Animal massage practitioners certified under chapter 18.240
14 RCW; and

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

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

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

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

22 (iii) The dental quality assurance commission as established in
23 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
24 licenses and registrations issued under chapter 18.260 RCW;

25 (iv) The board of hearing and speech as established in chapter
26 18.35 RCW;

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

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

31 (vii) The board of osteopathic medicine and surgery as established
32 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
33 18.57A RCW;

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

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

- 1 (x) The board of physical therapy as established in chapter 18.74
- 2 RCW;
- 3 (xi) The board of occupational therapy practice as established in
- 4 chapter 18.59 RCW;
- 5 (xii) The nursing care quality assurance commission as established
- 6 in chapter 18.79 RCW governing licenses and registrations issued under
- 7 that chapter;
- 8 (xiii) The examining board of psychology and its disciplinary
- 9 committee as established in chapter 18.83 RCW; and
- 10 (xiv) The veterinary board of governors as established in chapter
- 11 18.92 RCW.

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

20 conditions.

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

25 NEW SECTION. Sec. 3. A new section is added to chapter 18.130 RCW
26 to read as follows:

- 27 (1) The disciplining authority may deny an application for
- 28 licensure or grant a license with conditions if the applicant:
 - 29 (a) Has had his or her license to practice any health care
 - 30 profession suspended, revoked, or restricted, by competent authority in
 - 31 any state, federal, or foreign jurisdiction;
 - 32 (b) Has committed any act defined as unprofessional conduct for a
 - 33 license holder under RCW 18.130.180;
 - 34 (c) Has been convicted or is subject to current prosecution or
 - 35 pending charges of a crime involving moral turpitude or a crime
 - 36 identified in RCW 43.43.830. For purposes of this section, conviction
 - 37 includes all instances in which a plea of guilty or nolo contendere is

1 the basis for the conviction and all proceedings in which the
2 prosecution or sentence has been deferred or suspended. At the request
3 of an applicant for an original license whose conviction is under
4 appeal, the disciplining authority may defer decision upon the
5 application during the pendency of such a prosecution or appeal;

6 (d) Fails to prove that he or she is qualified in accordance with
7 the provisions of this chapter, the chapters identified in RCW
8 18.130.040(2), or the rules adopted by the disciplining authority; or

9 (e) Is not able to practice with reasonable skill and safety to
10 consumers by reason of any mental or physical condition.

11 (i) The disciplining authority may require the applicant, at his or
12 her own expense, to submit to a mental, physical, or psychological
13 examination by one or more licensed health professionals designated by
14 the disciplining authority. The disciplining authority shall provide
15 written notice of its requirement for a mental or physical examination
16 that includes a statement of the specific conduct, event, or
17 circumstances justifying an examination and a statement of the nature,
18 purpose, scope, and content of the intended examination. If the
19 applicant fails to submit to the examination or provide the results of
20 the examination or any required waivers, the disciplining authority may
21 deny the application.

22 (ii) An applicant governed by this chapter is deemed to have given
23 consent to submit to a mental, physical, or psychological examination
24 when directed in writing by the disciplining authority and further to
25 have waived all objections to the admissibility or use of the examining
26 health professional's testimony or examination reports by the
27 disciplining authority on the grounds that the testimony or reports
28 constitute privileged communications.

29 (2) The provisions of RCW 9.95.240 and chapter 9.96A RCW do not
30 apply to a decision to deny a license under this section.

31 (3) The disciplining authority shall give written notice to the
32 applicant of the decision to deny a license or grant a license with
33 conditions in response to an application for a license. The notice
34 must state the grounds and factual basis for the action and be served
35 upon the applicant.

36 (4) A license applicant who is aggrieved by the decision to deny
37 the license or grant the license with conditions has the right to an
38 adjudicative proceeding. The application for adjudicative proceeding

1 must be in writing, state the basis for contesting the adverse action,
2 include a copy of the adverse notice, and be served on and received by
3 the department within twenty-eight days of the decision. The license
4 applicant has the burden to establish, by a preponderance of evidence,
5 that the license applicant is qualified in accordance with the
6 provisions of this chapter, the chapters identified in RCW
7 18.130.040(2), and the rules adopted by the disciplining authority.

8 **Sec. 4.** RCW 18.130.050 and 2006 c 99 s 4 are each amended to read
9 as follows:

10 The disciplining authority has the following authority:

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

13 (2) To investigate all complaints or reports of unprofessional
14 conduct as defined in this chapter and to hold hearings as provided in
15 this chapter, using the standard of practice for the profession;

16 (3) To issue subpoenas and administer oaths in connection with any
17 investigation, consideration of an application for license, hearing, or
18 proceeding held under this chapter;

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

22 (5) To compel attendance of witnesses at hearings;

23 (6) In the course of investigating a complaint or report of
24 unprofessional conduct, to conduct practice reviews and to issue
25 citations and assess fines for failure to produce documents, records,
26 or other items in accordance with section 5 of this act;

27 (7) To take emergency action ordering summary suspension of a
28 license, or restriction or limitation of the license holder's practice
29 pending proceedings by the disciplining authority. Consistent with RCW
30 18.130.370, a disciplining authority shall issue a summary suspension
31 of the license or temporary practice permit of a license holder
32 prohibited from practicing a health care profession in another state,
33 federal, or foreign jurisdiction because of an act of unprofessional
34 conduct that is substantially equivalent to an act of unprofessional
35 conduct prohibited by this chapter or any of the chapters specified in
36 RCW 18.130.040. The summary suspension remains in effect until

1 proceedings by the Washington disciplining authority have been
2 completed;

3 (8) To use a presiding officer as authorized in RCW 18.130.095(3)
4 or the office of administrative hearings as authorized in chapter 34.12
5 RCW to conduct hearings. The disciplining authority shall make the
6 final decision regarding disposition of the license unless the
7 disciplining authority elects to delegate in writing the final decision
8 to the presiding officer;

9 (9) To use individual members of the boards to direct
10 investigations and to authorize the issuance of a citation under
11 subsection (6) of this section. However, the member of the board shall
12 not subsequently participate in the hearing of the case;

13 (10) To enter into contracts for professional services determined
14 to be necessary for adequate enforcement of this chapter;

15 (11) To contract with licensees or other persons or organizations
16 to provide services necessary for the monitoring and supervision of
17 licensees who are placed on probation, whose professional activities
18 are restricted, or who are for any authorized purpose subject to
19 monitoring by the disciplining authority;

20 (12) To adopt standards of professional conduct or practice;

21 (13) To grant or deny license applications, and in the event of a
22 finding of unprofessional conduct by an applicant or license holder, to
23 impose any sanction against a license applicant or license holder
24 provided by this chapter;

25 (14) To restrict or place conditions on the practice of new
26 licensees in order to protect the public and promote the safety of and
27 confidence in the health care system;

28 (15) To designate individuals authorized to sign subpoenas and
29 statements of charges;

30 ((+15+)) (16) To establish panels consisting of three or more
31 members of the board to perform any duty or authority within the
32 board's jurisdiction under this chapter;

33 ((+16+)) (17) To review and audit the records of licensed health
34 facilities' or services' quality assurance committee decisions in which
35 a licensee's practice privilege or employment is terminated or
36 restricted. Each health facility or service shall produce and make
37 accessible to the disciplining authority the appropriate records and

1 otherwise facilitate the review and audit. Information so gained shall
2 not be subject to discovery or introduction into evidence in any civil
3 action pursuant to RCW 70.41.200(3).

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.130 RCW
5 to read as follows:

6 (1)(a) A licensee must produce documents, records, or other items
7 that are within his or her possession or control within twenty-one
8 calendar days of service of a request by a disciplining authority. If
9 the twenty-one calendar day limit results in a hardship upon the
10 licensee, he or she may request, for good cause, an extension not to
11 exceed thirty additional calendar days.

12 (b) In the event the licensee fails to produce the documents,
13 records, or other items as requested by the disciplining authority or
14 fails to obtain an extension of the time for response, the disciplining
15 authority may issue a written citation and assess a fine of up to one
16 hundred dollars per day for each day after the issuance of the citation
17 until the documents, records, or other items are produced.

18 (c) In no event may the administrative fine assessed by the
19 disciplining authority exceed five thousand dollars for each
20 investigation made with respect to the violation.

21 (2) Citations issued under this section must include the following:

22 (a) A statement that the citation represents a determination that
23 the person named has failed to produce documents, records, or other
24 items as required by this section and that the determination is final
25 unless contested as provided in this section;

26 (b) A statement of the specific circumstances;

27 (c) A statement of the monetary fine, which is up to one hundred
28 dollars per day for each day after the issuance of the citation;

29 (d) A statement informing the licensee that if the licensee desires
30 a hearing to contest the finding of a violation, the hearing must be
31 requested by written notice to the disciplining authority within twenty
32 days of the date of issuance of the citation. The hearing is limited
33 to the issue of whether the licensee timely produced the requested
34 documents, records, or other items or had good cause for failure to do
35 so; and

36 (e) A statement that in the event a licensee fails to pay a fine

1 within thirty days of the date of assessment, the full amount of the
2 assessed fine must be added to the fee for renewal of the license
3 unless the citation is being appealed.

4 (3) RCW 18.130.165 governs proof and enforcement of the fine.

5 (4) Administrative fines collected under this section must be
6 deposited in the health professions account created in RCW 43.70.320.

7 (5) Issuance of a citation under this section does not preclude the
8 disciplining authority from pursuing other action under this chapter.

9 (6) The disciplining authority shall establish and make available
10 to licensees the maximum daily monetary fine that may be issued under
11 subsection (2)(c) of this section. The disciplining authority shall
12 review the maximum fine on a regular basis, but at a minimum, each
13 biennium.

14 **Sec. 6.** RCW 18.130.080 and 2006 c 99 s 5 are each amended to read
15 as follows:

16 (1) A person, including but not limited to consumers, licensees,
17 corporations, organizations, health care facilities, impaired
18 practitioner programs, or voluntary substance abuse monitoring programs
19 approved by disciplining authorities, and state and local governmental
20 agencies, may submit a written complaint to the disciplining authority
21 charging a license holder or applicant with unprofessional conduct and
22 specifying the grounds therefor or to report information to the
23 disciplining authority, or voluntary substance abuse monitoring
24 program, or an impaired practitioner program approved by the
25 disciplining authority, which indicates that the license holder may not
26 be able to practice his or her profession with reasonable skill and
27 safety to consumers as a result of a mental or physical condition. If
28 the disciplining authority determines that the complaint merits
29 investigation, or if the disciplining authority has reason to believe,
30 without a formal complaint, that a license holder or applicant may have
31 engaged in unprofessional conduct, the disciplining authority shall
32 investigate to determine whether there has been unprofessional conduct.
33 In determining whether or not to investigate, the disciplining
34 authority shall consider any prior complaints received by the
35 disciplining authority, any prior findings of fact under RCW
36 18.130.110, any stipulations to informal disposition under RCW

1 18.130.172, and any comparable action taken by other state disciplining
2 authorities.

3 (2) Notwithstanding subsection (1) of this section, the
4 disciplining authority shall initiate an investigation in every
5 instance where the disciplining authority receives information that a
6 health care provider has been disqualified from participating in the
7 federal medicare program, under Title XVIII of the federal social
8 security act, or the federal medicaid program, under Title XIX of the
9 federal social security act.

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

13 (4)(a) The secretary is authorized to receive criminal history
14 record information that includes nonconviction data for any purpose
15 associated with the investigation or licensing of persons under this
16 chapter.

17 (b) Dissemination or use of nonconviction data for purposes other
18 than that authorized in this section is prohibited.

19 NEW SECTION. Sec. 7. A new section is added to chapter 18.130 RCW
20 to read as follows:

21 (1)(a) The secretary is authorized to receive criminal history
22 record information that includes nonconviction data for any purpose
23 associated with investigation or licensing and investigate the complete
24 criminal history and pending charges of all applicants and licensees.

25 (b) The secretary shall review the information contained in the
26 criminal history record information with due consideration for the
27 standard of practice in the profession.

28 (c) Dissemination or use of nonconviction data for purposes other
29 than that authorized in this section is prohibited.

30 (2) The investigation may include an examination of state and
31 national criminal identification data. The disciplining authority
32 shall use the information for determining eligibility for licensure or
33 renewal. The disciplining authority may also use the information when
34 determining whether to proceed with an investigation of a report under
35 RCW 18.130.080. For a national criminal history records check, the
36 department shall require fingerprints be submitted to and searched

1 through the Washington state patrol identification and criminal history
2 section. The Washington state patrol shall forward the fingerprints to
3 the federal bureau of investigation.

4 (3) Criminal justice agencies shall provide the secretary with both
5 conviction and nonconviction information that the secretary requests
6 for investigations under this chapter.

7 (4) There is established a unit within the department for the
8 purpose of detection, investigation, and prosecution of any act
9 prohibited or declared unlawful under this chapter. The secretary will
10 employ supervisory, legal, and investigative personnel for the program
11 who must be qualified by training and experience.

12 **Sec. 8.** RCW 18.130.140 and 1984 c 279 s 14 are each amended to
13 read as follows:

14 An individual who has been disciplined (~~(or)~~), whose license has
15 been denied, or whose license has been granted with conditions by a
16 disciplining authority may appeal the decision as provided in chapter
17 34.05 RCW.

18 **Sec. 9.** RCW 18.130.150 and 1997 c 58 s 831 are each amended to
19 read as follows:

20 A person whose license has been suspended (~~(or revoked)~~) under this
21 chapter may petition the disciplining authority for reinstatement after
22 an interval as determined by the disciplining authority in the order
23 unless the disciplining authority has found, pursuant to RCW
24 18.130.160, that the licensee can never be rehabilitated or can never
25 regain the ability to practice with reasonable skill and safety. The
26 disciplining authority shall hold hearings on the petition and may deny
27 the petition or may order reinstatement and impose terms and conditions
28 as provided in RCW 18.130.160 and issue an order of reinstatement. The
29 disciplining authority may require successful completion of an
30 examination as a condition of reinstatement.

31 A person whose license has been suspended for noncompliance with a
32 support order or (~~(a residential or)~~) visitation order under RCW
33 74.20A.320 may petition for reinstatement at any time by providing the
34 secretary a release issued by the department of social and health
35 services stating that the person is in compliance with the order. If
36 the person has continued to meet all other requirements for

1 reinstatement during the suspension, the secretary shall automatically
2 reissue the person's license upon receipt of the release, and payment
3 of a reinstatement fee, if any.

4 **Sec. 10.** RCW 18.130.160 and 2006 c 99 s 6 and 2006 c 8 s 104 are
5 each reenacted and amended to read as follows:

6 Upon a finding, after hearing, that a license holder (~~or~~
7 ~~applicant~~) has committed unprofessional conduct or is unable to
8 practice with reasonable skill and safety due to a physical or mental
9 condition, the disciplining authority may consider the imposition of
10 sanctions, taking into account any prior findings of fact under RCW
11 18.130.110, any stipulations to informal disposition under RCW
12 18.130.172, and any action taken by other in-state or out-of-state
13 disciplining authorities, and issue an order providing for one or any
14 combination of the following:

- 15 (1) Revocation of the license;
- 16 (2) Suspension of the license for a fixed or indefinite term;
- 17 (3) Restriction or limitation of the practice;
- 18 (4) Requiring the satisfactory completion of a specific program of
19 remedial education or treatment;
- 20 (5) The monitoring of the practice by a supervisor approved by the
21 disciplining authority;
- 22 (6) Censure or reprimand;
- 23 (7) Compliance with conditions of probation for a designated period
24 of time;
- 25 (8) Payment of a fine for each violation of this chapter, not to
26 exceed five thousand dollars per violation. Funds received shall be
27 placed in the health professions account;
- 28 (9) Denial of the license request;
- 29 (10) Corrective action;
- 30 (11) Refund of fees billed to and collected from the consumer; or
- 31 (12) A surrender of the practitioner's license in lieu of other
32 sanctions, which must be reported to the federal data bank.

33 Any of the actions under this section may be totally or partly
34 stayed by the disciplining authority. Safeguarding the public's health
35 and safety is the paramount responsibility of every disciplining
36 authority and in determining what action is appropriate, the
37 disciplining authority must first consider what sanctions are necessary

1 to protect or compensate the public. Only after such provisions have
2 been made may the disciplining authority consider and include in the
3 order requirements designed to rehabilitate the license holder (~~or~~
4 ~~applicant~~). All costs associated with compliance with orders issued
5 under this section are the obligation of the license holder (~~or~~
6 ~~applicant~~). The disciplining authority may order permanent revocation
7 of a license if it finds that the licensee can never be rehabilitated
8 or can never regain the ability to practice with reasonable skill and
9 safety.

10 Surrender or permanent revocation of a license under this section
11 is not subject to a petition for reinstatement under RCW 18.130.150.

12 The licensee (~~or—applicant~~) may enter into a stipulated
13 disposition of charges that includes one or more of the sanctions of
14 this section, but only after a statement of charges has been issued and
15 the licensee has been afforded the opportunity for a hearing and has
16 elected on the record to forego such a hearing. The stipulation shall
17 either contain one or more specific findings of unprofessional conduct
18 or inability to practice, or a statement by the licensee acknowledging
19 that evidence is sufficient to justify one or more specified findings
20 of unprofessional conduct or inability to practice. The stipulation
21 entered into pursuant to this subsection shall be considered formal
22 disciplinary action for all purposes.

23 **Sec. 11.** RCW 18.130.165 and 1993 c 367 s 20 are each amended to
24 read as follows:

25 Where an order for payment of a fine is made as a result of a
26 citation under section 5 of this act or a hearing under RCW 18.130.100
27 or 18.130.190 and timely payment is not made as directed in the final
28 order, the disciplining authority may enforce the order for payment in
29 the superior court in the county in which the hearing was held. This
30 right of enforcement shall be in addition to any other rights the
31 disciplining authority may have as to any licensee ordered to pay a
32 fine but shall not be construed to limit a licensee's ability to seek
33 judicial review under RCW 18.130.140.

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

1 **Sec. 12.** RCW 18.130.170 and 1995 c 336 s 8 are each amended to
2 read as follows:

3 (1) If the disciplining authority believes a license holder (~~(or~~
4 ~~applicant)~~) may be unable to practice with reasonable skill and safety
5 to consumers by reason of any mental or physical condition, a statement
6 of charges in the name of the disciplining authority shall be served on
7 the license holder (~~(or applicant)~~) and notice shall also be issued
8 providing an opportunity for a hearing. The hearing shall be limited
9 to the sole issue of the capacity of the license holder (~~(or~~
10 ~~applicant)~~) to practice with reasonable skill and safety. If the
11 disciplining authority determines that the license holder (~~(or~~
12 ~~applicant)~~) is unable to practice with reasonable skill and safety for
13 one of the reasons stated in this subsection, the disciplining
14 authority shall impose such sanctions under RCW 18.130.160 as is deemed
15 necessary to protect the public.

16 (2)(a) In investigating or adjudicating a complaint or report that
17 a license holder (~~(or applicant)~~) may be unable to practice with
18 reasonable skill or safety by reason of any mental or physical
19 condition, the disciplining authority may require a license holder (~~(or~~
20 ~~applicant)~~) to submit to a mental or physical examination by one or
21 more licensed or certified health professionals designated by the
22 disciplining authority. The license holder (~~(or applicant)~~) shall be
23 provided written notice of the disciplining authority's intent to order
24 a mental or physical examination, which notice shall include: (i) A
25 statement of the specific conduct, event, or circumstances justifying
26 an examination; (ii) a summary of the evidence supporting the
27 disciplining authority's concern that the license holder (~~(or~~
28 ~~applicant)~~) may be unable to practice with reasonable skill and safety
29 by reason of a mental or physical condition, and the grounds for
30 believing such evidence to be credible and reliable; (iii) a statement
31 of the nature, purpose, scope, and content of the intended examination;
32 (iv) a statement that the license holder (~~(or applicant)~~) has the right
33 to respond in writing within twenty days to challenge the disciplining
34 authority's grounds for ordering an examination or to challenge the
35 manner or form of the examination; and (v) a statement that if the
36 license holder (~~(or applicant)~~) timely responds to the notice of
37 intent, then the license holder (~~(or applicant)~~) will not be required
38 to submit to the examination while the response is under consideration.

1 (b) Upon submission of a timely response to the notice of intent to
2 order a mental or physical examination, the license holder ((~~or~~
3 ~~applicant~~)) shall have an opportunity to respond to or refute such an
4 order by submission of evidence or written argument or both. The
5 evidence and written argument supporting and opposing the mental or
6 physical examination shall be reviewed by either a panel of the
7 disciplining authority members who have not been involved with the
8 allegations against the license holder ((~~or~~~~applicant~~)) or a neutral
9 decision maker approved by the disciplining authority. The reviewing
10 panel of the disciplining authority or the approved neutral decision
11 maker may, in its discretion, ask for oral argument from the parties.
12 The reviewing panel of the disciplining authority or the approved
13 neutral decision maker shall prepare a written decision as to whether:
14 There is reasonable cause to believe that the license holder ((~~or~~
15 ~~applicant~~)) may be unable to practice with reasonable skill and safety
16 by reason of a mental or physical condition, or the manner or form of
17 the mental or physical examination is appropriate, or both.

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

34 (d) If the disciplining authority finds that a license holder ((~~or~~
35 ~~applicant~~)) has failed to submit to a properly ordered mental or
36 physical examination, then the disciplining authority may order
37 appropriate action or discipline under RCW 18.130.180(9), unless the
38 failure was due to circumstances beyond the person's control. However,

1 no such action or discipline may be imposed unless the license holder
2 (~~or applicant~~) has had the notice and opportunity to challenge the
3 disciplining authority's grounds for ordering the examination, to
4 challenge the manner and form, to assert any other defenses, and to
5 have such challenges or defenses considered by either a panel of the
6 disciplining authority members who have not been involved with the
7 allegations against the license holder (~~or applicant~~) or a neutral
8 decision maker approved by the disciplining authority, as previously
9 set forth in this section. Further, the action or discipline ordered
10 by the disciplining authority shall not be more severe than a
11 suspension of the license, certification, registration, or application
12 until such time as the license holder (~~or applicant~~) complies with
13 the properly ordered mental or physical examination.

14 (e) Nothing in this section shall restrict the power of a
15 disciplining authority to act in an emergency under RCW 34.05.422(4),
16 34.05.479, and 18.130.050(7).

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

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

34 **Sec. 13.** RCW 18.130.172 and 2000 c 171 s 29 are each amended to
35 read as follows:

36 (1) Prior to serving a statement of charges under RCW 18.130.090 or
37 18.130.170, the disciplinary authority may furnish a statement of

1 allegations to the licensee (~~(or applicant)~~) along with a detailed
2 summary of the evidence relied upon to establish the allegations and a
3 proposed stipulation for informal resolution of the allegations. These
4 documents shall be exempt from public disclosure until such time as the
5 allegations are resolved either by stipulation or otherwise.

6 (2) The disciplinary authority and the (~~(applicant or)~~) licensee
7 may stipulate that the allegations may be disposed of informally in
8 accordance with this subsection. The stipulation shall contain a
9 statement of the facts leading to the filing of the complaint; the act
10 or acts of unprofessional conduct alleged to have been committed or the
11 alleged basis for determining that the (~~(applicant or)~~) licensee is
12 unable to practice with reasonable skill and safety; a statement that
13 the stipulation is not to be construed as a finding of either
14 unprofessional conduct or inability to practice; an acknowledgment that
15 a finding of unprofessional conduct or inability to practice, if
16 proven, constitutes grounds for discipline under this chapter; and an
17 agreement on the part of the licensee (~~(or applicant)~~) that the
18 sanctions set forth in RCW 18.130.160, except RCW 18.130.160 (1), (2),
19 (6), and (8), may be imposed as part of the stipulation, except that no
20 fine may be imposed but the licensee (~~(or applicant)~~) may agree to
21 reimburse the disciplinary authority the costs of investigation and
22 processing the complaint up to an amount not exceeding one thousand
23 dollars per allegation; and an agreement on the part of the
24 disciplinary authority to forego further disciplinary proceedings
25 concerning the allegations. A stipulation entered into pursuant to
26 this subsection shall not be considered formal disciplinary action.

27 (3) If the licensee (~~(or applicant)~~) declines to agree to
28 disposition of the charges by means of a stipulation pursuant to
29 subsection (2) of this section, the disciplinary authority may proceed
30 to formal disciplinary action pursuant to RCW 18.130.090 or 18.130.170.

31 (4) Upon execution of a stipulation under subsection (2) of this
32 section by both the licensee (~~(or applicant)~~) and the disciplinary
33 authority, the complaint is deemed disposed of and shall become subject
34 to public disclosure on the same basis and to the same extent as other
35 records of the disciplinary authority. Should the licensee (~~(or~~
36 ~~applicant)~~) fail to pay any agreed reimbursement within thirty days of
37 the date specified in the stipulation for payment, the disciplinary

1 authority may seek collection of the amount agreed to be paid in the
2 same manner as enforcement of a fine under RCW 18.130.165.

3 **Sec. 14.** RCW 18.130.180 and 1995 c 336 s 9 are each amended to
4 read as follows:

5 The following conduct, acts, or conditions constitute
6 unprofessional conduct for any license holder (~~(or applicant)~~) under
7 the jurisdiction of this chapter:

8 (1) The commission of any act involving moral turpitude,
9 dishonesty, or corruption relating to the practice of the person's
10 profession, whether the act constitutes a crime or not. If the act
11 constitutes a crime, conviction in a criminal proceeding is not a
12 condition precedent to disciplinary action. Upon such a conviction,
13 however, the judgment and sentence is conclusive evidence at the
14 ensuing disciplinary hearing of the guilt of the license holder (~~(or~~
15 ~~applicant)~~) of the crime described in the indictment or information,
16 and of the person's violation of the statute on which it is based. For
17 the purposes of this section, conviction includes all instances in
18 which a plea of guilty or nolo contendere is the basis for the
19 conviction and all proceedings in which the sentence has been deferred
20 or suspended. Nothing in this section abrogates rights guaranteed
21 under chapter 9.96A RCW;

22 (2) Misrepresentation or concealment of a material fact in
23 obtaining a license or in reinstatement thereof;

24 (3) All advertising which is false, fraudulent, or misleading;

25 (4) Incompetence, negligence, or malpractice which results in
26 injury to a patient or which creates an unreasonable risk that a
27 patient may be harmed. The use of a nontraditional treatment by itself
28 shall not constitute unprofessional conduct, provided that it does not
29 result in injury to a patient or create an unreasonable risk that a
30 patient may be harmed;

31 (5) Suspension, revocation, or restriction of the individual's
32 license to practice any health care profession by competent authority
33 in any state, federal, or foreign jurisdiction, a certified copy of the
34 order, stipulation, or agreement being conclusive evidence of the
35 revocation, suspension, or restriction;

36 (6) The possession, use, prescription for use, or distribution of
37 controlled substances or legend drugs in any way other than for

1 legitimate or therapeutic purposes, diversion of controlled substances
2 or legend drugs, the violation of any drug law, or prescribing
3 controlled substances for oneself;

4 (7) Violation of any state or federal statute or administrative
5 rule regulating the profession in question, including any statute or
6 rule defining or establishing standards of patient care or professional
7 conduct or practice;

8 (8) Failure to cooperate with the disciplining authority by:

9 (a) Not furnishing any papers ((~~or~~)), documents, records, or other
10 items;

11 (b) Not furnishing in writing a full and complete explanation
12 covering the matter contained in the complaint filed with the
13 disciplining authority;

14 (c) Not responding to subpoenas issued by the disciplining
15 authority, whether or not the recipient of the subpoena is the accused
16 in the proceeding; or

17 (d) Not providing reasonable and timely access for authorized
18 representatives of the disciplining authority seeking to perform
19 practice reviews at facilities utilized by the license holder;

20 (9) Failure to comply with an order issued by the disciplining
21 authority or a stipulation for informal disposition entered into with
22 the disciplining authority;

23 (10) Aiding or abetting an unlicensed person to practice when a
24 license is required;

25 (11) Violations of rules established by any health agency;

26 (12) Practice beyond the scope of practice as defined by law or
27 rule;

28 (13) Misrepresentation or fraud in any aspect of the conduct of the
29 business or profession;

30 (14) Failure to adequately supervise auxiliary staff to the extent
31 that the consumer's health or safety is at risk;

32 (15) Engaging in a profession involving contact with the public
33 while suffering from a contagious or infectious disease involving
34 serious risk to public health;

35 (16) Promotion for personal gain of any unnecessary or
36 inefficacious drug, device, treatment, procedure, or service;

37 (17) Conviction of any gross misdemeanor or felony relating to the
38 practice of the person's profession. For the purposes of this

1 subsection, conviction includes all instances in which a plea of guilty
2 or nolo contendere is the basis for conviction and all proceedings in
3 which the sentence has been deferred or suspended. Nothing in this
4 section abrogates rights guaranteed under chapter 9.96A RCW;

5 (18) The procuring, or aiding or abetting in procuring, a criminal
6 abortion;

7 (19) The offering, undertaking, or agreeing to cure or treat
8 disease by a secret method, procedure, treatment, or medicine, or the
9 treating, operating, or prescribing for any health condition by a
10 method, means, or procedure which the licensee refuses to divulge upon
11 demand of the disciplining authority;

12 (20) The willful betrayal of a practitioner-patient privilege as
13 recognized by law;

14 (21) Violation of chapter 19.68 RCW;

15 (22) Interference with an investigation or disciplinary proceeding
16 by willful misrepresentation of facts before the disciplining authority
17 or its authorized representative, or by the use of threats or
18 harassment against any patient or witness to prevent them from
19 providing evidence in a disciplinary proceeding or any other legal
20 action, or by the use of financial inducements to any patient or
21 witness to prevent or attempt to prevent him or her from providing
22 evidence in a disciplinary proceeding;

23 (23) Current misuse of:

24 (a) Alcohol;

25 (b) Controlled substances; or

26 (c) Legend drugs;

27 (24) Abuse of a client or patient or sexual contact with a client
28 or patient;

29 (25) Acceptance of more than a nominal gratuity, hospitality, or
30 subsidy offered by a representative or vendor of medical or health-
31 related products or services intended for patients, in contemplation of
32 a sale or for use in research publishable in professional journals,
33 where a conflict of interest is presented, as defined by rules of the
34 disciplining authority, in consultation with the department, based on
35 recognized professional ethical standards.

36 **Sec. 15.** RCW 9.96A.020 and 1999 c 16 s 1 are each amended to read
37 as follows:

1 (1) Subject to the exceptions in subsections (3) and (4) of this
2 section, and unless there is another provision of law to the contrary,
3 a person is not disqualified from employment by the state of Washington
4 or any of its counties, cities, towns, municipal corporations, or
5 quasi-municipal corporations, nor is a person disqualified to practice,
6 pursue or engage in any occupation, trade, vocation, or business for
7 which a license, permit, certificate or registration is required to be
8 issued by the state of Washington or any of its counties, cities,
9 towns, municipal corporations, or quasi-municipal corporations solely
10 because of a prior conviction of a felony. However, this section does
11 not preclude the fact of any prior conviction of a crime from being
12 considered.

13 (2) A person may be denied employment by the state of Washington or
14 any of its counties, cities, towns, municipal corporations, or quasi-
15 municipal corporations, or a person may be denied a license, permit,
16 certificate or registration to pursue, practice or engage in an
17 occupation, trade, vocation, or business by reason of the prior
18 conviction of a felony if the felony for which he or she was convicted
19 directly relates to the position of employment sought or to the
20 specific occupation, trade, vocation, or business for which the
21 license, permit, certificate or registration is sought, and the time
22 elapsed since the conviction is less than ten years. However, for
23 positions in the county treasurer's office, a person may be
24 disqualified from employment because of a prior guilty plea or
25 conviction of a felony involving embezzlement or theft, even if the
26 time elapsed since the guilty plea or conviction is ten years or more.

27 (3) A person is disqualified for any certificate required or
28 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior
29 guilty plea or the conviction of a felony involving sexual exploitation
30 of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44
31 RCW where a minor is the victim, promoting prostitution of a minor
32 under chapter 9A.88 RCW, or a violation of similar laws of another
33 jurisdiction, even if the time elapsed since the guilty plea or
34 conviction is ten years or more.

35 (4) A person is disqualified from employment by school districts,
36 educational service districts, and their contractors hiring employees
37 who will have regularly scheduled unsupervised access to children,
38 because of a prior guilty plea or conviction of a felony involving

1 sexual exploitation of a child under chapter 9.68A RCW, sexual offenses
2 under chapter 9A.44 RCW where a minor is the victim, promoting
3 prostitution of a minor under chapter 9A.88 RCW, or a violation of
4 similar laws of another jurisdiction, even if the time elapsed since
5 the guilty plea or conviction is ten years or more.

6 (5) The provisions of this chapter do not apply to issuance of
7 licenses or credentials for professions regulated under chapter 18.130
8 RCW.

9 (6) Subsections (3) and (4) of this section only apply to a person
10 applying for a certificate or for employment on or after July 25, 1993.
11 Subsection (5) of this section only applies to a person applying for a
12 license or credential on or after the effective date of this section.

13 **Sec. 16.** RCW 9.95.240 and 2003 c 66 s 1 are each amended to read
14 as follows:

15 (1) Every defendant who has fulfilled the conditions of his or her
16 probation for the entire period thereof, or who shall have been
17 discharged from probation prior to the termination of the period
18 thereof, may at any time prior to the expiration of the maximum period
19 of punishment for the offense for which he or she has been convicted be
20 permitted in the discretion of the court to withdraw his or her plea of
21 guilty and enter a plea of not guilty, or if he or she has been
22 convicted after a plea of not guilty, the court may in its discretion
23 set aside the verdict of guilty; and in either case, the court may
24 thereupon dismiss the information or indictment against such defendant,
25 who shall thereafter be released from all penalties and disabilities
26 resulting from the offense or crime of which he or she has been
27 convicted. The probationer shall be informed of this right in his or
28 her probation papers: PROVIDED, That in any subsequent prosecution,
29 for any other offense, such prior conviction may be pleaded and proved,
30 and shall have the same effect as if probation had not been granted, or
31 the information or indictment dismissed.

32 (2)(a) After the period of probation has expired, the defendant may
33 apply to the sentencing court for a vacation of the defendant's record
34 of conviction under RCW 9.94A.640. The court may, in its discretion,
35 clear the record of conviction if it finds the defendant has met the
36 equivalent of the tests in RCW 9.94A.640(2) as those tests would be
37 applied to a person convicted of a crime committed before July 1, 1984.

1 (b) The clerk of the court in which the vacation order is entered
2 shall immediately transmit the order vacating the conviction to the
3 Washington state patrol identification section and to the local police
4 agency, if any, which holds criminal history information for the person
5 who is the subject of the conviction. The Washington state patrol and
6 any such local police agency shall immediately update their records to
7 reflect the vacation of the conviction, and shall transmit the order
8 vacating the conviction to the federal bureau of investigation. A
9 conviction that has been vacated under this section may not be
10 disseminated or disclosed by the state patrol or local law enforcement
11 agency to any person, except other criminal justice enforcement
12 agencies.

13 (3) This section does not apply to chapter 18.130 RCW.

14 **Sec. 17.** RCW 43.43.825 and 2006 c 99 s 8 are each amended to read
15 as follows:

16 (1) Upon a guilty plea or conviction of a person for any felony
17 crime involving homicide under chapter 9A.32 RCW, assault under chapter
18 9A.36 RCW, kidnapping under chapter 9A.40 RCW, ~~((or))~~ sex offenses
19 under chapter 9A.44 RCW, financial crimes under chapter 9A.60 RCW,
20 violations of the uniform controlled substances act under chapter 69.50
21 RCW, any drug offense defined under RCW 9.94A.030, or a crime of any
22 type classified as a felony under Washington state law, the prosecuting
23 attorney shall notify the state patrol of such guilty pleas or
24 convictions.

25 (2) When the state patrol receives information that a person has
26 pled guilty to or been convicted of one of the felony crimes under
27 subsection (1) of this section, the state patrol shall transmit that
28 information to the department of health. It is the duty of the
29 department of health to identify whether the person holds a credential
30 issued by a disciplining authority listed under RCW 18.130.040, and
31 provide this information to the disciplining authority that issued the
32 credential to the person who pled guilty or was convicted of a crime
33 listed in subsection (1) of this section.

34 NEW SECTION. **Sec. 18.** A new section is added to chapter 18.71 RCW
35 to read as follows:

36 (1) The commission shall conduct a medical quality assurance

1 commission pilot project to evaluate the effect of granting the
2 commission additional authority over budget development, spending, and
3 staffing. The pilot project shall begin July 1, 2008, and conclude
4 June 30, 2011.

5 (2) The pilot project shall include the following provisions:

6 (a) That the secretary shall employ an executive director who is
7 approved by the commission and exempt from the provisions of the civil
8 service law, chapter 41.06 RCW, and serves at the pleasure of the
9 commission;

10 (b) That the executive director performs all administrative duties
11 of the commission, including managing employees assigned by the
12 secretary to the commission, preparing an annual budget, and any other
13 duties delegated to the executive director by the commission;

14 (c) That the secretary shall employ and assign investigators with
15 medical expertise, as required to enable the commission to accomplish
16 its duties and responsibilities. The secretary shall consult with the
17 executive director when making primary staffing assignments on a long-
18 term basis to foster the development and maintenance of staff
19 expertise. To ensure continuity and best practices, the secretary
20 shall regularly evaluate staff assignments and workload distribution;

21 (d) Consistent with the budget and accounting act:

22 (i) With regard to budget for the remainder of the 2007-2009
23 biennium, the commission has authority to spend the funds allotted with
24 respect to its professions, physicians regulated under this chapter,
25 and physician assistants regulated under chapter 18.71A RCW; and

26 (ii) Beginning with the 2009-2011 biennium, the commission is
27 responsible for proposing its own biennial budget which the secretary
28 must submit to the office of financial management;

29 (e) That, prior to adopting credentialing fees under RCW 43.70.250,
30 the secretary shall consult with the commission to determine the
31 appropriate fees for the individual professions, consistent with RCW
32 43.70.250;

33 (f) That the commission shall annually negotiate with the secretary
34 to develop performance-based expectations, including identification of
35 key performance measures. The performance expectations should focus on
36 consistent, timely regulation of health care professionals.

37 (3) By December 15, 2012, the secretary and the commission shall

1 report to the governor and the legislature on the results of the pilot
2 project. The report shall:

3 (a) Compare the effectiveness of licensing and disciplinary
4 activities of the commission during the pilot project with the
5 licensing and disciplinary activities of the commission prior to the
6 pilot project;

7 (b) Compare the effectiveness of licensing and disciplinary
8 activities of the commission during the pilot project with the
9 disciplinary activities of other disciplining authorities during the
10 same time period as the pilot project;

11 (c) Compare the efficiency of the commission with respect to the
12 timeliness and personnel resources during the pilot project to the
13 efficiency of the commission prior to the pilot project and the
14 efficiency of other disciplining authorities during the same period as
15 the pilot project;

16 (d) Compare the budgetary activity of the commission during the
17 pilot project to the budgetary activity of the commission prior to the
18 pilot project and to the budgetary activity of other disciplining
19 authorities during the same period as the pilot project;

20 (e) Evaluate the commission's ability to meet the key performance
21 measures identified in subsection (2)(f) of this section in comparison
22 to other disciplining authorities; and

23 (f) Review summaries of national research and data regarding
24 regulatory effectiveness and patient safety.

25 **Sec. 19.** RCW 18.71.0191 and 1994 sp.s. c 9 s 326 are each amended
26 to read as follows:

27 Except as provided in section 18 of this act for the duration of
28 the pilot project, the secretary of the department of health shall
29 appoint, from a list of three names supplied by the commission, an
30 executive director who shall act to carry out the provisions of this
31 chapter. The secretary shall also employ such additional staff
32 including administrative assistants, investigators, and clerical staff
33 as are required to enable the commission to accomplish its duties and
34 responsibilities. The executive director is exempt from the provisions
35 of the civil service law, chapter 41.06 RCW, as now or hereafter
36 amended.

1 **Sec. 20.** RCW 43.70.240 and 1998 c 245 s 73 are each amended to
2 read as follows:

3 The secretary and each of the professional licensing and
4 disciplinary boards or commissions under the administration of the
5 department shall enter into written operating agreements on
6 administrative procedures with input from the regulated profession and
7 the public. The intent of these agreements is to provide a process for
8 the department to consult each board or commission on administrative
9 matters and to ensure that the administration and staff functions
10 effectively enable each board or commission to fulfill its statutory
11 responsibilities. The agreements shall include, but not be limited to,
12 the following provisions:

- 13 (1) Administrative activities supporting the board's policies,
14 goals, and objectives;
- 15 (2) Development and review of the agency budget as it relates to
16 the board; (~~and~~)
- 17 (3) Board related personnel issues; and
- 18 (4) Other issues as provided in section 18 of this act, pertaining
19 to the medical quality assurance commission pilot project for the
20 duration of that project.

21 The agreements shall be reviewed and revised in like manner if
22 appropriate at the beginning of each fiscal year, and at other times
23 upon written request by the secretary or the board.

24 NEW SECTION. **Sec. 21.** Section 1 of this act expires July 1, 2008.

25 NEW SECTION. **Sec. 22.** Section 2 of this act takes effect July 1,
26 2008.

27 NEW SECTION. **Sec. 23.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

--- END ---