

CERTIFICATION OF ENROLLMENT

**FOURTH SUBSTITUTE HOUSE BILL 1103**

Chapter 134, Laws of 2008

(partial veto)

60th Legislature  
2008 Regular Session

HEALTH PROFESSIONS

EFFECTIVE DATE: 06/12/08 - Except section 18, which becomes effective 07/01/08.

Passed by the House March 8, 2008  
Yeas 93 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Passed by the Senate March 6, 2008  
Yeas 48 Nays 1

BRAD OWEN

**President of the Senate**

Approved March 25, 2008, 1:10 p.m.,  
with the exception of section 40 which  
is vetoed.

CHRISTINE GREGOIRE

**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **FOURTH SUBSTITUTE HOUSE BILL 1103** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

**Chief Clerk**

FILED

March 25, 2008

**Secretary of State  
State of Washington**

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FOURTH SUBSTITUTE HOUSE BILL 1103

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AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington                      60th Legislature                      2008 Regular Session

By House Appropriations (originally sponsored by Representatives Campbell, Green, Kenney, Hudgins, Appleton, Schual-Berke, and Cody)

READ FIRST TIME 02/12/08.

1            AN ACT Relating to health professions; amending RCW 18.130.020,  
2 18.130.050, 18.130.060, 18.130.080, 18.130.095, 18.130.170, 18.130.310,  
3 70.41.210, 43.70.320, 18.130.140, 18.130.150, 18.130.165, 18.130.172,  
4 18.130.180, 9.96A.020, 9.95.240, 43.43.825, 18.71.0191, and 18.79.130;  
5 reenacting and amending RCW 18.130.160, 18.130.040, and 18.130.040;  
6 adding new sections to chapter 18.130 RCW; adding a new section to  
7 chapter 42.52 RCW; adding a new section to chapter 18.71 RCW; adding a  
8 new section to chapter 18.79 RCW; adding a new section to chapter 18.25  
9 RCW; adding a new section to chapter 18.32 RCW; creating new sections;  
10 prescribing penalties; providing effective dates; providing expiration  
11 dates; and declaring an emergency.

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

13            NEW SECTION.    **Sec. 1.** From statehood, Washington has  
14 constitutionally provided for the regulation of the practice of  
15 medicine and the sale of drugs and medicines. This constitutional  
16 recognition of the importance of regulating health care practitioners  
17 derives not from providers' financial interest in their license, but  
18 from the greater need to protect the public health and safety by

1 assuring that the health care providers and medicines that society  
2 relies upon meet certain standards of quality.

3 The legislature finds that the issuance of a license to practice as  
4 a health care provider should be a means to promote quality and not be  
5 a means to provide financial benefit for providers. Statutory and  
6 administrative requirements provide sufficient due process protections  
7 to prevent the unwarranted revocation of a health care provider's  
8 license. While those due process protections must be maintained, there  
9 is an urgent need to return to the original constitutional mandate that  
10 patients be ensured quality from their health care providers. The  
11 legislature has recognized and medical malpractice reforms have  
12 recognized the importance of quality and patient safety through such  
13 measures as a new adverse events reporting system. Reforms to the  
14 health care provider licensing system is another step toward improving  
15 quality in health care. Therefore, the legislature intends to increase  
16 the authority of those engaged in the regulation of health care  
17 providers to swiftly identify and remove health care providers who pose  
18 a risk to the public.

19 **Sec. 2.** RCW 18.130.020 and 1995 c 336 s 1 are each amended to read  
20 as follows:

21 (~~Unless the context clearly requires otherwise,~~) The definitions  
22 in this section apply throughout this chapter unless the context  
23 clearly requires otherwise.

24 (1) "Disciplining authority" means the agency, board, or commission  
25 having the authority to take disciplinary action against a holder of,  
26 or applicant for, a professional or business license upon a finding of  
27 a violation of this chapter or a chapter specified under RCW  
28 18.130.040.

29 (2) "Department" means the department of health.

30 (3) "Secretary" means the secretary of health or the secretary's  
31 designee.

32 (4) "Board" means any of those boards specified in RCW 18.130.040.

33 (5) "Clinical expertise" means the proficiency or judgment that a  
34 license holder in a particular profession acquires through clinical  
35 experience or clinical practice and that is not possessed by a lay  
36 person.



1       ~~((3))~~ (4) To issue subpoenas and administer oaths in connection  
2 with any investigation, consideration of an application for license,  
3 hearing, or proceeding held under this chapter;

4       ~~((4))~~ (5) To take or cause depositions to be taken and use other  
5 discovery procedures as needed in any investigation, hearing, or  
6 proceeding held under this chapter;

7       ~~((5))~~ (6) To compel attendance of witnesses at hearings;

8       ~~((6))~~ (7) In the course of investigating a complaint or report of  
9 unprofessional conduct, to conduct practice reviews and to issue  
10 citations and assess fines for failure to produce documents, records,  
11 or other items in accordance with section 20 of this act;

12       ~~((7))~~ (8) To take emergency action ordering summary suspension of  
13 a license, or restriction or limitation of the license holder's  
14 practice pending proceedings by the disciplining authority. Within  
15 fourteen days of a request by the affected license holder, the  
16 disciplining authority must provide a show cause hearing in accordance  
17 with the requirements of section 6 of this act. Consistent with RCW  
18 18.130.370, a disciplining authority shall issue a summary suspension  
19 of the license or temporary practice permit of a license holder  
20 prohibited from practicing a health care profession in another state,  
21 federal, or foreign jurisdiction because of an act of unprofessional  
22 conduct that is substantially equivalent to an act of unprofessional  
23 conduct prohibited by this chapter or any of the chapters specified in  
24 RCW 18.130.040. The summary suspension remains in effect until  
25 proceedings by the Washington disciplining authority have been  
26 completed;

27       ~~((8))~~ (9) To conduct show cause hearings in accordance with  
28 section 5 or 6 of this act to review an action taken by the  
29 disciplining authority to suspend a license or restrict or limit a  
30 license holder's practice pending proceedings by the disciplining  
31 authority;

32       (10) To use a presiding officer as authorized in RCW 18.130.095(3)  
33 or the office of administrative hearings as authorized in chapter 34.12  
34 RCW to conduct hearings. The disciplining authority shall make the  
35 final decision regarding disposition of the license unless the  
36 disciplining authority elects to delegate in writing the final decision  
37 to the presiding officer. Disciplining authorities identified in RCW  
38 18.130.040(2)(b) may not delegate the final decision regarding

1 disposition of the license or imposition of sanctions to a presiding  
2 officer in any case pertaining to standards of practice or where  
3 clinical expertise is necessary;

4 ~~((9))~~ (11) To use individual members of the boards to direct  
5 investigations and to authorize the issuance of a citation under  
6 subsection (7) of this section. However, the member of the board shall  
7 not subsequently participate in the hearing of the case;

8 ~~((10))~~ (12) To enter into contracts for professional services  
9 determined to be necessary for adequate enforcement of this chapter;

10 ~~((11))~~ (13) To contract with ~~((licensees))~~ license holders or  
11 other persons or organizations to provide services necessary for the  
12 monitoring and supervision of ~~((licensees))~~ license holders who are  
13 placed on probation, whose professional activities are restricted, or  
14 who are for any authorized purpose subject to monitoring by the  
15 disciplining authority;

16 ~~((12))~~ (14) To adopt standards of professional conduct or  
17 practice;

18 ~~((13))~~ (15) To grant or deny license applications, and in the  
19 event of a finding of unprofessional conduct by an applicant or license  
20 holder, to impose any sanction against a license applicant or license  
21 holder provided by this chapter. After January 1, 2009, all sanctions  
22 must be issued in accordance with section 12 of this act;

23 ~~((14))~~ (16) To restrict or place conditions on the practice of  
24 new licensees in order to protect the public and promote the safety of  
25 and confidence in the health care system;

26 (17) To designate individuals authorized to sign subpoenas and  
27 statements of charges;

28 ~~((15))~~ (18) To establish panels consisting of three or more  
29 members of the board to perform any duty or authority within the  
30 board's jurisdiction under this chapter;

31 ~~((16))~~ (19) To review and audit the records of licensed health  
32 facilities' or services' quality assurance committee decisions in which  
33 a ~~((licensee's))~~ license holder's practice privilege or employment is  
34 terminated or restricted. Each health facility or service shall  
35 produce and make accessible to the disciplining authority the  
36 appropriate records and otherwise facilitate the review and audit.  
37 Information so gained shall not be subject to discovery or introduction  
38 into evidence in any civil action pursuant to RCW 70.41.200(3).

1       **Sec. 4.** RCW 18.130.060 and 2006 c 99 s 1 are each amended to read  
2 as follows:

3       In addition to the authority specified in RCW 18.130.050 and  
4 section 5 of this act, the secretary has the following additional  
5 authority:

6       (1) To employ such investigative, administrative, and clerical  
7 staff as necessary for the enforcement of this chapter. The secretary  
8 must, whenever practical, make primary assignments on a long-term basis  
9 to foster the development and maintenance of staff expertise. To  
10 ensure continuity and best practices, the secretary will regularly  
11 evaluate staff assignments and workload distribution;

12       (2) Upon the request of a board or commission, to appoint pro tem  
13 members to participate as members of a panel of the board or commission  
14 in connection with proceedings specifically identified in the request.  
15 Individuals so appointed must meet the same minimum qualifications as  
16 regular members of the board or commission. Pro tem members appointed  
17 for matters under this chapter are appointed for a term of no more than  
18 one year. No pro tem member may serve more than four one-year terms.  
19 While serving as board or commission members pro tem, persons so  
20 appointed have all the powers, duties, and immunities, and are entitled  
21 to the emoluments, including travel expenses in accordance with RCW  
22 43.03.050 and 43.03.060, of regular members of the board or commission.  
23 The chairperson of a panel shall be a regular member of the board or  
24 commission appointed by the board or commission chairperson. Panels  
25 have authority to act as directed by the board or commission with  
26 respect to all matters (~~concerning the review, investigation, and~~  
27 ~~adjudication of all complaints, allegations, charges, and matters~~)  
28 subject to the jurisdiction of the board or commission and within the  
29 authority of the board or commission. The authority to act through  
30 panels does not restrict the authority of the board or commission to  
31 act as a single body at any phase of proceedings within the board's or  
32 commission's jurisdiction. Board or commission panels may (~~make~~  
33 ~~interim orders and~~) issue final orders and decisions with respect to  
34 matters and cases delegated to the panel by the board or commission.  
35 Final decisions may be appealed as provided in chapter 34.05 RCW, the  
36 administrative procedure act;

37       (3) To establish fees to be paid for witnesses, expert witnesses,

1 and consultants used in any investigation and to establish fees to  
2 witnesses in any agency adjudicative proceeding as authorized by RCW  
3 34.05.446;

4 (4) To conduct investigations and practice reviews at the direction  
5 of the disciplining authority and to issue subpoenas, administer oaths,  
6 and take depositions in the course of conducting those investigations  
7 and practice reviews at the direction of the disciplining authority;

8 (5) To have the health professions regulatory program establish a  
9 system to recruit potential public members, to review the  
10 qualifications of such potential members, and to provide orientation to  
11 those public members appointed pursuant to law by the governor or the  
12 secretary to the boards and commissions specified in RCW  
13 18.130.040(2)(b), and to the advisory committees and councils for  
14 professions specified in RCW 18.130.040(2)(a); and

15 (6) To adopt rules, in consultation with the disciplining  
16 authorities, requiring every license holder to report information  
17 identified in RCW 18.130.070.

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

20 With regard to complaints that only allege that a license holder  
21 has committed an act or acts of unprofessional conduct involving sexual  
22 misconduct, the secretary shall serve as the sole disciplining  
23 authority in every aspect of the disciplinary process, including  
24 initiating investigations, investigating, determining the disposition  
25 of the complaint, holding hearings, preparing findings of fact, issuing  
26 orders or dismissals of charges as provided in RCW 18.130.110, entering  
27 into stipulations permitted by RCW 18.130.172, or issuing summary  
28 suspensions under section 6 of this act. The board or commission shall  
29 review all cases and only refer to the secretary sexual misconduct  
30 cases that do not involve clinical expertise or standard of care  
31 issues.

32 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.130 RCW  
33 to read as follows:

34 (1) Upon an order of a disciplining authority to summarily suspend  
35 a license, or restrict or limit a license holder's practice pursuant to  
36 RCW 18.130.050 or section 5 of this act, the license holder is entitled

1 to a show cause hearing before a panel or the secretary as identified  
2 in subsection (2) of this section within fourteen days of requesting a  
3 show cause hearing. The license holder must request the show cause  
4 hearing within twenty days of the issuance of the order. At the show  
5 cause hearing, the disciplining authority has the burden of  
6 demonstrating that more probable than not, the license holder poses an  
7 immediate threat to the public health and safety. The license holder  
8 must request a hearing regarding the statement of charges in accordance  
9 with RCW 18.130.090.

10 (2)(a) In the case of a license holder who is regulated by a board  
11 or commission identified in RCW 18.130.040(2)(b), the show cause  
12 hearing must be held by a panel of the appropriate board or commission.

13 (b) In the case of a license holder who is regulated by the  
14 secretary under RCW 18.130.040(2)(a), the show cause hearing must be  
15 held by the secretary.

16 (3) At the show cause hearing, the show cause hearing panel or the  
17 secretary may consider the statement of charges, the motion, and  
18 documents supporting the request for summary action, the respondent's  
19 answer to the statement of charges, and shall provide the license  
20 holder with an opportunity to provide documentary evidence and written  
21 testimony, and be represented by counsel. Prior to the show cause  
22 hearing, the disciplining authority shall provide the license holder  
23 with all documentation in support of the charges against the license  
24 holder.

25 (4)(a) If the show cause hearing panel or secretary determines that  
26 the license holder does not pose an immediate threat to the public  
27 health and safety, the panel or secretary may overturn the summary  
28 suspension or restriction order.

29 (b) If the show cause hearing panel or secretary determines that  
30 the license holder poses an immediate threat to the public health and  
31 safety, the summary suspension or restriction order shall remain in  
32 effect. The show cause hearing panel or secretary may amend the order  
33 as long as the amended order ensures that the license holder will no  
34 longer pose an immediate threat to the public health and safety.

35 (5) Within forty-five days of the show cause hearing panel's or  
36 secretary's determination to sustain the summary suspension or place  
37 restrictions on the license, the license holder may request a full  
38 hearing on the merits of the disciplining authority's decision to

1 suspend or restrict the license. A full hearing must be provided  
2 within forty-five days of receipt of the request for a hearing, unless  
3 stipulated otherwise.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.130 RCW  
5 to read as follows:

6 (1)(a) The secretary is authorized to receive criminal history  
7 record information that includes nonconviction data for any purpose  
8 associated with investigation or licensing and investigate the complete  
9 criminal history and pending charges of all applicants and license  
10 holders.

11 (b) Dissemination or use of nonconviction data for purposes other  
12 than that authorized in this section is prohibited. Disciplining  
13 authorities shall restrict the use of background check results in  
14 determining the individual's suitability for a license and in  
15 conducting disciplinary functions.

16 (2)(a) The secretary shall establish requirements for each  
17 applicant for an initial license to obtain a state background check  
18 through the state patrol prior to the issuance of any license. The  
19 background check may be fingerprint-based at the discretion of the  
20 department.

21 (b) The secretary shall specify those situations where a background  
22 check under (a) of this subsection is inadequate and an applicant for  
23 an initial license must obtain an electronic fingerprint-based national  
24 background check through the state patrol and federal bureau of  
25 investigation. Situations where a background check is inadequate may  
26 include instances where an applicant has recently lived out of state or  
27 where the applicant has a criminal record in Washington. The secretary  
28 shall issue a temporary practice permit to an applicant who must have  
29 a national background check conducted if the background check conducted  
30 under (a) of this subsection does not reveal a criminal record in  
31 Washington, and if the applicant meets the provisions of RCW  
32 18.130.075.

33 (3) In addition to the background check required in subsection (2)  
34 of this section, an investigation may include an examination of state  
35 and national criminal identification data. The disciplining authority  
36 shall use the information for determining eligibility for licensure or  
37 renewal. The disciplining authority may also use the information when

1 determining whether to proceed with an investigation of a report under  
2 RCW 18.130.080. For a national criminal history records check, the  
3 department shall require fingerprints be submitted to and searched  
4 through the Washington state patrol identification and criminal history  
5 section. The Washington state patrol shall forward the fingerprints to  
6 the federal bureau of investigation.

7 (4) The secretary shall adopt rules to require license holders to  
8 report to the disciplining authority any arrests, convictions, or other  
9 determinations or findings by a law enforcement agency occurring after  
10 the effective date of this section for a criminal offense. The report  
11 must be made within fourteen days of the conviction.

12 (5) The secretary shall conduct an annual review of a  
13 representative sample of all license holders who have previously  
14 obtained a background check through the department. The selection of  
15 the license holders to be reviewed must be representative of all  
16 categories of license holders and geographic locations.

17 (6)(a) When deciding whether or not to issue an initial license,  
18 the disciplining authority shall consider the results of any background  
19 check conducted under subsection (2) of this section that reveals a  
20 conviction for any criminal offense that constitutes unprofessional  
21 conduct under this chapter or the chapters specified in RCW  
22 18.130.040(2) or a series of arrests that when considered together  
23 demonstrate a pattern of behavior that, without investigation, may pose  
24 a risk to the safety of the license holder's patients.

25 (b) If the background check conducted under subsection (2) of this  
26 section reveals any information related to unprofessional conduct that  
27 has not been previously disclosed to the disciplining authority, the  
28 disciplining authority shall take appropriate disciplinary action  
29 against the license holder.

30 (7) The department shall:

31 (a) Require the applicant or license holder to submit full sets of  
32 fingerprints if necessary to complete the background check;

33 (b) Require the applicant to submit any information required by the  
34 state patrol; and

35 (c) Notify the applicant if their background check reveals a  
36 criminal record. Only when the background check reveals a criminal  
37 record will an applicant receive a notice. Upon receiving such a  
38 notice, the applicant may request and the department shall provide a

1 copy of the record to the extent permitted under RCW 10.97.050,  
2 including making accessible to the applicant for their personal use and  
3 information any records of arrest, charges, or allegations of criminal  
4 conduct or other nonconviction data pursuant to RCW 10.97.050(4).

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

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

13 **Sec. 8.** RCW 18.130.080 and 2006 c 99 s 5 are each amended to read  
14 as follows:

15 (1) (~~A person, including but not limited to consumers, licensees,~~  
16 ~~corporations, organizations, health care facilities, impaired~~  
17 ~~practitioner programs, or voluntary substance abuse monitoring programs~~  
18 ~~approved by disciplining authorities, and state and local governmental~~  
19 ~~agencies,)) (a) An individual, an impaired practitioner program, or a  
20 voluntary substance abuse monitoring program approved by a disciplining  
21 authority, may submit a written complaint to the disciplining authority  
22 charging a license holder or applicant with unprofessional conduct and  
23 specifying the grounds therefor or to report information to the  
24 disciplining authority, or voluntary substance abuse monitoring  
25 program, or an impaired practitioner program approved by the  
26 disciplining authority, which indicates that the license holder may not  
27 be able to practice his or her profession with reasonable skill and  
28 safety to consumers as a result of a mental or physical condition.~~

29 (b)(i) Every license holder, corporation, organization, health care  
30 facility, and state and local governmental agency that employs a  
31 license holder shall report to the disciplining authority when the  
32 employed license holder's services have been terminated or restricted  
33 based upon a final determination that the license holder has either  
34 committed an act or acts that may constitute unprofessional conduct or  
35 that the license holder may not be able to practice his or her  
36 profession with reasonable skill and safety to consumers as a result of  
37 a mental or physical condition.

1 (ii) All reports required by (b)(i) of this subsection must be  
2 submitted to the disciplining authority as soon as possible, but no  
3 later than twenty days after a determination has been made. A report  
4 should contain the following information, if known:

5 (A) The name, address, and telephone number of the person making  
6 the report;

7 (B) The name, address, and telephone number of the license holder  
8 being reported;

9 (C) The case number of any patient whose treatment is the subject  
10 of the report;

11 (D) A brief description or summary of the facts that gave rise to  
12 the issuance of the report, including dates of occurrences;

13 (E) If court action is involved, the name of the court in which the  
14 action is filed, the date of filing, and the docket number; and

15 (F) Any further information that would aid in the evaluation of the  
16 report.

17 (iii) Mandatory reports required by (b)(i) of this subsection are  
18 exempt from public inspection and copying to the extent permitted under  
19 chapter 42.56 RCW or to the extent that public inspection or copying of  
20 the report would invade or violate a person's right to privacy as set  
21 forth in RCW 42.56.050.

22 (2) If the disciplining authority determines that ((the)) a  
23 complaint submitted under subsection (1) of this section merits  
24 investigation, or if the disciplining authority has reason to believe,  
25 without a formal complaint, that a license holder or applicant may have  
26 engaged in unprofessional conduct, the disciplining authority shall  
27 investigate to determine whether there has been unprofessional conduct.  
28 In determining whether or not to investigate, the disciplining  
29 authority shall consider any prior complaints received by the  
30 disciplining authority, any prior findings of fact under RCW  
31 18.130.110, any stipulations to informal disposition under RCW  
32 18.130.172, and any comparable action taken by other state disciplining  
33 authorities.

34 ((+2)) (3) Notwithstanding subsection ((+1)) (2) of this section,  
35 the disciplining authority shall initiate an investigation in every  
36 instance where:

37 (a) The disciplining authority receives information that a health  
38 care provider has been disqualified from participating in the federal

1 medicare program, under Title XVIII of the federal social security act,  
2 or the federal medicaid program, under Title XIX of the federal social  
3 security act; or

4 (b) There is a pattern of complaints, arrests, or other actions  
5 that may not have resulted in a formal adjudication of wrongdoing, but  
6 when considered together demonstrate a pattern of similar conduct that,  
7 without investigation, likely poses a risk to the safety of the license  
8 holder's patients.

9 (4) Failure of a license holder to submit a mandatory report to the  
10 disciplining authority under subsection (1)(b) of this section is  
11 punishable by a civil penalty not to exceed five hundred dollars and  
12 constitutes unprofessional conduct.

13 (5) If a report has been made by a hospital to the department under  
14 RCW 70.41.210 or an ambulatory surgical facility under RCW 70.230.120,  
15 a report to the disciplining authority under subsection (1)(b) of this  
16 section is not required.

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

20 (6) A person is immune from civil liability, whether direct or  
21 derivative, for providing information in good faith to the disciplining  
22 authority under this section.

23 (7)(a) The secretary is authorized to receive criminal history  
24 record information that includes nonconviction data for any purpose  
25 associated with the investigation or licensing of persons under this  
26 chapter.

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

29 **Sec. 9.** RCW 18.130.095 and 2005 c 274 s 231 are each amended to  
30 read as follows:

31 (1)(a) The secretary, in consultation with the disciplining  
32 authorities, shall develop uniform procedural rules to respond to  
33 public inquiries concerning complaints and their disposition, active  
34 investigations, statement of charges, findings of fact, and final  
35 orders involving a ~~((licensee))~~ license holder, applicant, or  
36 unlicensed person. The uniform procedural rules adopted under this  
37 subsection apply to all adjudicative proceedings conducted under this

1 chapter and shall include provisions for establishing time periods for  
2 initial assessment, investigation, charging, discovery, settlement, and  
3 adjudication of complaints, and shall include enforcement provisions  
4 for violations of the specific time periods by the department, the  
5 disciplining authority, and the respondent. A ((~~licensee~~)) license  
6 holder must be notified upon receipt of a complaint, except when the  
7 notification would impede an effective investigation. At the earliest  
8 point of time the ((~~licensee~~)) license holder must be allowed to submit  
9 a written statement about that complaint, which statement must be  
10 included in the file. Complaints filed after July 27, 1997, are exempt  
11 from public disclosure under chapter 42.56 RCW until the complaint has  
12 been initially assessed and determined to warrant an investigation by  
13 the disciplining authority. Complaints determined not to warrant an  
14 investigation by the disciplining authority are no longer considered  
15 complaints, but must remain in the records and tracking system of the  
16 department. Information about complaints that did not warrant an  
17 investigation, including the existence of the complaint, may be  
18 released only upon receipt of a written public disclosure request or  
19 pursuant to an interagency agreement as provided in (b) of this  
20 subsection. Complaints determined to warrant no cause for action after  
21 investigation are subject to public disclosure, must include an  
22 explanation of the determination to close the complaint, and must  
23 remain in the records and tracking system of the department.

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

31 (2) The uniform procedures for conducting investigations shall  
32 provide that prior to taking a written statement:

33 (a) For violation of this chapter, the investigator shall inform  
34 such person, in writing of: (i) The nature of the complaint; (ii) that  
35 the person may consult with legal counsel at his or her expense prior  
36 to making a statement; and (iii) that any statement that the person  
37 makes may be used in an adjudicative proceeding conducted under this  
38 chapter; and

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

6 (3) Only upon the authorization of a disciplining authority  
7 identified in RCW 18.130.040(2)(b), the secretary, or his or her  
8 designee, may serve as the presiding officer for any disciplinary  
9 proceedings of the disciplining authority authorized under this  
10 chapter. (~~Except as provided in RCW 18.130.050(8),~~) The presiding  
11 officer shall not vote on or make any final decision in cases  
12 pertaining to standards of practice or where clinical expertise is  
13 necessary. All functions performed by the presiding officer shall be  
14 subject to chapter 34.05 RCW. The secretary, in consultation with the  
15 disciplining authorities, shall adopt procedures for implementing this  
16 subsection.

17 (4) The uniform procedural rules shall be adopted by all  
18 disciplining authorities listed in RCW 18.130.040(2), and shall be used  
19 for all adjudicative proceedings conducted under this chapter, as  
20 defined by chapter 34.05 RCW. The uniform procedural rules shall  
21 address the use of a presiding officer authorized in subsection (3) of  
22 this section to determine and issue decisions on all legal issues and  
23 motions arising during adjudicative proceedings.

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

26 Upon a finding, after hearing, that a license holder (~~or~~  
27 ~~applicant~~) has committed unprofessional conduct or is unable to  
28 practice with reasonable skill and safety due to a physical or mental  
29 condition, the disciplining authority (~~may consider the imposition of~~  
30 ~~sanctions, taking into account~~) shall issue an order including  
31 sanctions adopted in accordance with the schedule adopted under section  
32 12 of this act giving proper consideration to any prior findings of  
33 fact under RCW 18.130.110, any stipulations to informal disposition  
34 under RCW 18.130.172, and any action taken by other in-state or out-of-  
35 state disciplining authorities(, and issue an)). The order  
36 (~~providing~~) must provide for one or any combination of the following,  
37 as directed by the schedule:

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

19 Any of the actions under this section may be totally or partly  
20 stayed by the disciplining authority. Safeguarding the public's health  
21 and safety is the paramount responsibility of every disciplining  
22 authority ~~((and))~~. In determining what action is appropriate, the  
23 disciplining authority must consider the schedule adopted under section  
24 12 of this act. Where the schedule allows flexibility in determining  
25 the appropriate sanction, the disciplining authority must first  
26 consider what sanctions are necessary to protect or compensate the  
27 public. Only after such provisions have been made may the disciplining  
28 authority consider and include in the order requirements designed to  
29 rehabilitate the license holder ((or applicant)). All costs associated  
30 with compliance with orders issued under this section are the  
31 obligation of the license holder ((or applicant)). The disciplining  
32 authority may order permanent revocation of a license if it finds that  
33 the license holder can never be rehabilitated or can never regain the  
34 ability to practice with reasonable skill and safety.

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

37 The disciplining authority may determine that a case presents  
38 unique circumstances that the schedule adopted under section 12 of this

1 act does not adequately address. The disciplining authority may  
2 deviate from the schedule adopted under section 12 of this act when  
3 selecting appropriate sanctions, but the disciplining authority must  
4 issue a written explanation of the basis for not following the  
5 schedule.

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

18 **Sec. 11.** RCW 18.130.170 and 1995 c 336 s 8 are each amended to  
19 read as follows:

20 (1) If the disciplining authority believes a license holder (~~or~~  
21 ~~applicant~~) may be unable to practice with reasonable skill and safety  
22 to consumers by reason of any mental or physical condition, a statement  
23 of charges in the name of the disciplining authority shall be served on  
24 the license holder (~~or applicant~~) and notice shall also be issued  
25 providing an opportunity for a hearing. The hearing shall be limited  
26 to the sole issue of the capacity of the license holder (~~or~~  
27 ~~applicant~~) to practice with reasonable skill and safety. If the  
28 disciplining authority determines that the license holder (~~or~~  
29 ~~applicant~~) is unable to practice with reasonable skill and safety for  
30 one of the reasons stated in this subsection, the disciplining  
31 authority shall impose such sanctions under RCW 18.130.160 as is deemed  
32 necessary to protect the public.

33 (2)(a) In investigating or adjudicating a complaint or report that  
34 a license holder (~~or applicant~~) may be unable to practice with  
35 reasonable skill or safety by reason of any mental or physical  
36 condition, the disciplining authority may require a license holder (~~or~~  
37 ~~applicant~~) to submit to a mental or physical examination by one or

1 more licensed or certified health professionals designated by the  
2 disciplining authority. The license holder (~~(or applicant)~~) shall be  
3 provided written notice of the disciplining authority's intent to order  
4 a mental or physical examination, which notice shall include: (i) A  
5 statement of the specific conduct, event, or circumstances justifying  
6 an examination; (ii) a summary of the evidence supporting the  
7 disciplining authority's concern that the license holder (~~(or  
8 applicant)~~) may be unable to practice with reasonable skill and safety  
9 by reason of a mental or physical condition, and the grounds for  
10 believing such evidence to be credible and reliable; (iii) a statement  
11 of the nature, purpose, scope, and content of the intended examination;  
12 (iv) a statement that the license holder (~~(or applicant)~~) has the right  
13 to respond in writing within twenty days to challenge the disciplining  
14 authority's grounds for ordering an examination or to challenge the  
15 manner or form of the examination; and (v) a statement that if the  
16 license holder (~~(or applicant)~~) timely responds to the notice of  
17 intent, then the license holder (~~(or applicant)~~) will not be required  
18 to submit to the examination while the response is under consideration.

19 (b) Upon submission of a timely response to the notice of intent to  
20 order a mental or physical examination, the license holder (~~(or  
21 applicant)~~) shall have an opportunity to respond to or refute such an  
22 order by submission of evidence or written argument or both. The  
23 evidence and written argument supporting and opposing the mental or  
24 physical examination shall be reviewed by either a panel of the  
25 disciplining authority members who have not been involved with the  
26 allegations against the license holder (~~(or applicant)~~) or a neutral  
27 decision maker approved by the disciplining authority. The reviewing  
28 panel of the disciplining authority or the approved neutral decision  
29 maker may, in its discretion, ask for oral argument from the parties.  
30 The reviewing panel of the disciplining authority or the approved  
31 neutral decision maker shall prepare a written decision as to whether:  
32 There is reasonable cause to believe that the license holder (~~(or  
33 applicant)~~) may be unable to practice with reasonable skill and safety  
34 by reason of a mental or physical condition, or the manner or form of  
35 the mental or physical examination is appropriate, or both.

36 (c) Upon receipt by the disciplining authority of the written  
37 decision, or upon the failure of the license holder (~~(or applicant)~~) to  
38 timely respond to the notice of intent, the disciplining authority may

1 issue an order requiring the license holder (~~(or applicant)~~) to undergo  
2 a mental or physical examination. All such mental or physical  
3 examinations shall be narrowly tailored to address only the alleged  
4 mental or physical condition and the ability of the license holder (~~or~~  
5 ~~applicant~~) to practice with reasonable skill and safety. An order of  
6 the disciplining authority requiring the license holder (~~or~~  
7 ~~applicant~~) to undergo a mental or physical examination is not a final  
8 order for purposes of appeal. The cost of the examinations ordered by  
9 the disciplining authority shall be paid out of the health professions  
10 account. In addition to any examinations ordered by the disciplining  
11 authority, the (~~licensee~~) license holder may submit physical or  
12 mental examination reports from licensed or certified health  
13 professionals of the license holder's (~~or applicant's~~) choosing and  
14 expense.

15 (d) If the disciplining authority finds that a license holder (~~or~~  
16 ~~applicant~~) has failed to submit to a properly ordered mental or  
17 physical examination, then the disciplining authority may order  
18 appropriate action or discipline under RCW 18.130.180(9), unless the  
19 failure was due to circumstances beyond the person's control. However,  
20 no such action or discipline may be imposed unless the license holder  
21 (~~or applicant~~) has had the notice and opportunity to challenge the  
22 disciplining authority's grounds for ordering the examination, to  
23 challenge the manner and form, to assert any other defenses, and to  
24 have such challenges or defenses considered by either a panel of the  
25 disciplining authority members who have not been involved with the  
26 allegations against the license holder (~~or applicant~~) or a neutral  
27 decision maker approved by the disciplining authority, as previously  
28 set forth in this section. Further, the action or discipline ordered  
29 by the disciplining authority shall not be more severe than a  
30 suspension of the license, certification, registration, or application  
31 until such time as the license holder (~~or applicant~~) complies with  
32 the properly ordered mental or physical examination.

33 (e) Nothing in this section shall restrict the power of a  
34 disciplining authority to act in an emergency under RCW 34.05.422(4),  
35 34.05.479, and 18.130.050(~~(+7)~~) (8).

36 (f) A determination by a court of competent jurisdiction that a  
37 license holder (~~or applicant~~) is mentally incompetent or (~~mentally~~  
38 ~~ill~~) an individual with mental illness is presumptive evidence of the

1 license holder's (~~or applicant's~~) inability to practice with  
2 reasonable skill and safety. An individual affected under this section  
3 shall at reasonable intervals be afforded an opportunity, at his or her  
4 expense, to demonstrate that the individual can resume competent  
5 practice with reasonable skill and safety to the consumer.

6 (3) For the purpose of subsection (2) of this section, (~~an~~  
7 ~~applicant or~~) a license holder governed by this chapter, by making  
8 application, practicing, or filing a license renewal, is deemed to have  
9 given consent to submit to a mental, physical, or psychological  
10 examination when directed in writing by the disciplining authority and  
11 further to have waived all objections to the admissibility or use of  
12 the examining health professional's testimony or examination reports by  
13 the disciplining authority on the ground that the testimony or reports  
14 constitute privileged communications.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 18.130  
16 RCW to read as follows:

17 (1) Each of the disciplining authorities identified in RCW  
18 18.130.040(2)(b) shall appoint a representative to review the  
19 secretary's sanctioning guidelines, as well as guidelines adopted by  
20 any of the boards and commissions, and collaborate to develop a  
21 schedule that defines appropriate ranges of sanctions that are  
22 applicable upon a determination that a license holder has committed  
23 unprofessional conduct as defined in this chapter or the chapters  
24 specified in RCW 18.130.040(2). The schedule must identify aggravating  
25 and mitigating circumstances that may enhance or reduce the sanction  
26 imposed by the disciplining authority for unprofessional conduct. The  
27 schedule must apply to all disciplining authorities. In addition, the  
28 disciplining authorities shall make provisions for instances in which  
29 there are multiple findings of unprofessional conduct. When  
30 establishing the proposed schedule, the disciplining authorities shall  
31 consider maintaining consistent sanction determinations that maximize  
32 the protection of the public's health and while maintaining the rights  
33 of health care providers of the different health professions. The  
34 disciplining authorities shall submit the proposed schedule and  
35 recommendations to modify or adopt the secretary's guidelines to the  
36 secretary no later than November 15, 2008.

1 (2) The secretary shall adopt rules establishing a uniform  
2 sanctioning schedule that is consistent with the proposed schedule  
3 developed under subsection (1) of this section. The schedule shall be  
4 applied to all disciplinary actions commenced under this chapter after  
5 January 1, 2009. The secretary shall use his or her emergency  
6 rule-making authority pursuant to the procedures under chapter 34.05  
7 RCW, to adopt rules that take effect no later than January 1, 2009, to  
8 implement the schedule.

9 (3) The disciplining authority may determine that a case presents  
10 unique circumstances that the schedule adopted under this section does  
11 not adequately address. The disciplining authority may deviate from  
12 the schedule adopted under this section when selecting appropriate  
13 sanctions, but the disciplining authority must issue a written  
14 explanation in the order of the basis for not following the schedule.

15 (4) The secretary shall report to the legislature by January 15,  
16 2009, on the adoption of the sanctioning schedule.

17 **Sec. 13.** RCW 18.130.310 and 1989 1st ex.s. c 9 s 313 are each  
18 amended to read as follows:

19 (1) Subject to RCW 40.07.040, the disciplinary authority shall  
20 submit ((a-biennial)) an annual report to the legislature on its  
21 proceedings during the ((biennium)) year, detailing the number of  
22 complaints made, investigated, and adjudicated and manner of  
23 disposition. In addition, the report must provide data on the  
24 department's background check activities conducted under section 7 of  
25 this act and the effectiveness of those activities in identifying  
26 potential license holders who may not be qualified to practice safely.  
27 The report must summarize the distribution of the number of cases  
28 assigned to each attorney and investigator for each profession. The  
29 identity of the attorney and investigator must remain anonymous. The  
30 report may include recommendations for improving the disciplinary  
31 process, including proposed legislation. The department shall develop  
32 a uniform report format.

33 (2) Each disciplining authority identified in RCW 18.130.040(2)(b)  
34 may submit an annual report to complement the report required under  
35 subsection (1) of this section. Each report may provide additional  
36 information about the disciplinary activities, rule-making and policy

1 activities, and receipts and expenditures for the individual  
2 disciplining authority.

3 **Sec. 14.** RCW 70.41.210 and 2005 c 470 s 1 are each amended to read  
4 as follows:

5 (1) The chief administrator or executive officer of a hospital  
6 shall report to the department when the practice of a health care  
7 practitioner as defined in subsection (2) of this section is  
8 restricted, suspended, limited, or terminated based upon a conviction,  
9 determination, or finding by the hospital that the health care  
10 practitioner has committed an action defined as unprofessional conduct  
11 under RCW 18.130.180. The chief administrator or executive officer  
12 shall also report any voluntary restriction or termination of the  
13 practice of a health care practitioner as defined in subsection (2) of  
14 this section while the practitioner is under investigation or the  
15 subject of a proceeding by the hospital regarding unprofessional  
16 conduct, or in return for the hospital not conducting such an  
17 investigation or proceeding or not taking action. The department will  
18 forward the report to the appropriate disciplining authority.

19 (2) The reporting requirements apply to the following health care  
20 practitioners: Pharmacists as defined in chapter 18.64 RCW; advanced  
21 registered nurse practitioners as defined in chapter 18.79 RCW;  
22 dentists as defined in chapter 18.32 RCW; naturopaths as defined in  
23 chapter 18.36A RCW; optometrists as defined in chapter 18.53 RCW;  
24 osteopathic physicians and surgeons as defined in chapter 18.57 RCW;  
25 osteopathic ((~~physician~~—[~~physicians~~'])) physicians' assistants as  
26 defined in chapter 18.57A RCW; physicians as defined in chapter 18.71  
27 RCW; physician assistants as defined in chapter 18.71A RCW; podiatric  
28 physicians and surgeons as defined in chapter 18.22 RCW; and  
29 psychologists as defined in chapter 18.83 RCW.

30 (3) Reports made under subsection (1) of this section shall be made  
31 within fifteen days of the date: (a) A conviction, determination, or  
32 finding is made by the hospital that the health care practitioner has  
33 committed an action defined as unprofessional conduct under RCW  
34 18.130.180; or (b) the voluntary restriction or termination of the  
35 practice of a health care practitioner, including his or her voluntary  
36 resignation, while under investigation or the subject of proceedings

1 regarding unprofessional conduct under RCW 18.130.180 is accepted by  
2 the hospital.

3 (4) Failure of a hospital to comply with this section is punishable  
4 by a civil penalty not to exceed (~~two~~) five hundred (~~fifty~~)  
5 dollars.

6 (5) A hospital, its chief administrator, or its executive officer  
7 who files a report under this section is immune from suit, whether  
8 direct or derivative, in any civil action related to the filing or  
9 contents of the report, unless the conviction, determination, or  
10 finding on which the report and its content are based is proven to not  
11 have been made in good faith. The prevailing party in any action  
12 brought alleging the conviction, determination, finding, or report was  
13 not made in good faith, shall be entitled to recover the costs of  
14 litigation, including reasonable attorneys' fees.

15 (6) The department shall forward reports made under subsection (1)  
16 of this section to the appropriate disciplining authority designated  
17 under Title 18 RCW within fifteen days of the date the report is  
18 received by the department. The department shall notify a hospital  
19 that has made a report under subsection (1) of this section of the  
20 results of the disciplining authority's case disposition decision  
21 within fifteen days after the case disposition. Case disposition is  
22 the decision whether to issue a statement of charges, take informal  
23 action, or close the complaint without action against a practitioner.  
24 In its biennial report to the legislature under RCW 18.130.310, the  
25 department shall specifically identify the case dispositions of reports  
26 made by hospitals under subsection (1) of this section.

27 (7) The department shall not increase hospital license fees to  
28 carry out this section before July 1, (~~2007~~) 2008.

29 NEW SECTION. **Sec. 15.** A new section is added to chapter 42.52 RCW  
30 to read as follows:

31 Members of a health profession board or commission as identified in  
32 RCW 18.130.040(2)(b) may express their professional opinions to an  
33 elected official about the work of the board or commission on which the  
34 member serves, even if those opinions differ from the department of  
35 health's official position. Such communication shall be to inform the  
36 elected official and not to lobby in support or opposition to any  
37 initiative to the legislature.

1           **Sec. 16.** RCW 43.70.320 and 1993 c 492 s 411 are each amended to  
2 read as follows:

3           (1) There is created in the state treasury an account to be known  
4 as the health professions account. All fees received by the department  
5 for health professions licenses, registration, certifications,  
6 renewals, or examinations and the civil penalties assessed and  
7 collected by the department under RCW 18.130.190 shall be forwarded to  
8 the state treasurer who shall credit such moneys to the health  
9 professions account.

10           (2) All expenses incurred in carrying out the health professions  
11 licensing activities of the department shall be paid from the account  
12 as authorized by legislative appropriation, except as provided in  
13 subsection (4) of this section. Any residue in the account shall be  
14 accumulated and shall not revert to the general fund at the end of the  
15 biennium.

16           (3) The secretary shall biennially prepare a budget request based  
17 on the anticipated costs of administering the health professions  
18 licensing activities of the department which shall include the  
19 estimated income from health professions fees.

20           (4) The secretary shall, at the request of a board or commission as  
21 applicable, spend unappropriated funds in the health professions  
22 account that are allocated to the requesting board or commission to  
23 meet unanticipated costs of that board or commission when revenues  
24 exceed more than fifteen percent over the department's estimated  
25 six-year spending projections for the requesting board or commission.  
26 Unanticipated costs shall be limited to spending as authorized in  
27 subsection (3) of this section for anticipated costs.

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

30           (1) This chapter applies only to the secretary and the boards and  
31 commissions having jurisdiction in relation to the professions licensed  
32 under the chapters specified in this section. This chapter does not  
33 apply to any business or profession not licensed under the chapters  
34 specified in this section.

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

1 (i) Dispensing opticians licensed and designated apprentices under  
2 chapter 18.34 RCW;  
3 (ii) Naturopaths licensed under chapter 18.36A RCW;  
4 (iii) Midwives licensed under chapter 18.50 RCW;  
5 (iv) Ocularists licensed under chapter 18.55 RCW;  
6 (v) Massage operators and businesses licensed under chapter 18.108  
7 RCW;  
8 (vi) Dental hygienists licensed under chapter 18.29 RCW;  
9 (vii) Acupuncturists licensed under chapter 18.06 RCW;  
10 (viii) Radiologic technologists certified and X-ray technicians  
11 registered under chapter 18.84 RCW;  
12 (ix) Respiratory care practitioners licensed under chapter 18.89  
13 RCW;  
14 (x) Persons registered under chapter 18.19 RCW;  
15 (xi) Persons licensed as mental health counselors, marriage and  
16 family therapists, and social workers under chapter 18.225 RCW;  
17 (xii) Persons registered as nursing pool operators under chapter  
18 18.52C RCW;  
19 (xiii) Nursing assistants registered or certified under chapter  
20 18.88A RCW;  
21 (xiv) Health care assistants certified under chapter 18.135 RCW;  
22 (xv) Dietitians and nutritionists certified under chapter 18.138  
23 RCW;  
24 (xvi) Chemical dependency professionals certified under chapter  
25 18.205 RCW;  
26 (xvii) Sex offender treatment providers and certified affiliate sex  
27 offender treatment providers certified under chapter 18.155 RCW;  
28 (xviii) Persons licensed and certified under chapter 18.73 RCW or  
29 RCW 18.71.205;  
30 (xix) Denturists licensed under chapter 18.30 RCW;  
31 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;  
32 (xxi) Surgical technologists registered under chapter 18.215 RCW;  
33 (xxii) Recreational therapists; and  
34 (xxiii) Animal massage practitioners certified under chapter 18.240  
35 RCW.  
36 (b) The boards and commissions having authority under this chapter  
37 are as follows:

- 1 (i) The podiatric medical board as established in chapter 18.22  
2 RCW;
- 3 (ii) The chiropractic quality assurance commission as established  
4 in chapter 18.25 RCW;
- 5 (iii) The dental quality assurance commission as established in  
6 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and  
7 licenses and registrations issued under chapter 18.260 RCW;
- 8 (iv) The board of hearing and speech as established in chapter  
9 18.35 RCW;
- 10 (v) The board of examiners for nursing home administrators as  
11 established in chapter 18.52 RCW;
- 12 (vi) The optometry board as established in chapter 18.54 RCW  
13 governing licenses issued under chapter 18.53 RCW;
- 14 (vii) The board of osteopathic medicine and surgery as established  
15 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and  
16 18.57A RCW;
- 17 (viii) The board of pharmacy as established in chapter 18.64 RCW  
18 governing licenses issued under chapters 18.64 and 18.64A RCW;
- 19 (ix) The medical quality assurance commission as established in  
20 chapter 18.71 RCW governing licenses and registrations issued under  
21 chapters 18.71 and 18.71A RCW;
- 22 (x) The board of physical therapy as established in chapter 18.74  
23 RCW;
- 24 (xi) The board of occupational therapy practice as established in  
25 chapter 18.59 RCW;
- 26 (xii) The nursing care quality assurance commission as established  
27 in chapter 18.79 RCW governing licenses and registrations issued under  
28 that chapter;
- 29 (xiii) The examining board of psychology and its disciplinary  
30 committee as established in chapter 18.83 RCW; and
- 31 (xiv) The veterinary board of governors as established in chapter  
32 18.92 RCW.
- 33 (3) In addition to the authority to discipline license holders, the  
34 disciplining authority has the authority to grant or deny licenses  
35 (~~based on the conditions and criteria established in this chapter and~~  
36 ~~the chapters specified in subsection (2) of this section. This chapter~~  
37 ~~also governs any investigation, hearing, or proceeding relating to~~  
38 ~~denial of licensure or issuance of a license conditioned on the~~

1 ~~applicant's compliance with an order entered pursuant to RCW 18.130.160~~  
2 ~~by)).~~ The disciplining authority may also grant a license subject to  
3 conditions.

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

8 **Sec. 18.** RCW 18.130.040 and 2007 c 269 s 17, 2007 c 253 s 13, and  
9 2007 c 70 s 11 are each reenacted and amended to read as follows:

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

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

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

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

20 (iii) Midwives licensed under chapter 18.50 RCW;

21 (iv) Ocularists licensed under chapter 18.55 RCW;

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

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

25 (vii) Acupuncturists licensed under chapter 18.06 RCW;

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

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

30 (x) Persons registered under chapter 18.19 RCW;

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

33 (xii) Persons registered as nursing pool operators under chapter  
34 18.52C RCW;

35 (xiii) Nursing assistants registered or certified under chapter  
36 18.88A RCW;

37 (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. 19. A new section is added to chapter 18.130  
26 RCW 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 NEW SECTION. **Sec. 20.** A new section is added to chapter 18.130  
9 RCW to read as follows:

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

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

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

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

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

30 (b) A statement of the specific circumstances;

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

33 (d) A statement informing the licensee that if the licensee desires  
34 a hearing to contest the finding of a violation, the hearing must be  
35 requested by written notice to the disciplining authority within twenty  
36 days of the date of issuance of the citation. The hearing is limited

1 to the issue of whether the licensee timely produced the requested  
2 documents, records, or other items or had good cause for failure to do  
3 so; and

4 (e) A statement that in the event a licensee fails to pay a fine  
5 within thirty days of the date of assessment, the full amount of the  
6 assessed fine must be added to the fee for renewal of the license  
7 unless the citation is being appealed.

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

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

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

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

18 **Sec. 21.** RCW 18.130.140 and 1984 c 279 s 14 are each amended to  
19 read as follows:

20 An individual who has been disciplined (~~(or)~~), whose license has  
21 been denied, or whose license has been granted with conditions by a  
22 disciplining authority may appeal the decision as provided in chapter  
23 34.05 RCW.

24 **Sec. 22.** RCW 18.130.150 and 1997 c 58 s 831 are each amended to  
25 read as follows:

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

1 A person whose license has been suspended for noncompliance with a  
2 support order or ((a residential or)) visitation order under RCW  
3 74.20A.320 may petition for reinstatement at any time by providing the  
4 secretary a release issued by the department of social and health  
5 services stating that the person is in compliance with the order. If  
6 the person has continued to meet all other requirements for  
7 reinstatement during the suspension, the secretary shall automatically  
8 reissue the person's license upon receipt of the release, and payment  
9 of a reinstatement fee, if any.

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

12 Where an order for payment of a fine is made as a result of a  
13 citation under section 20 of this act or a hearing under RCW 18.130.100  
14 or 18.130.190 and timely payment is not made as directed in the final  
15 order, the disciplining authority may enforce the order for payment in  
16 the superior court in the county in which the hearing was held. This  
17 right of enforcement shall be in addition to any other rights the  
18 disciplining authority may have as to any licensee ordered to pay a  
19 fine but shall not be construed to limit a licensee's ability to seek  
20 judicial review under RCW 18.130.140.

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

24 **Sec. 24.** RCW 18.130.172 and 2000 c 171 s 29 are each amended to  
25 read as follows:

26 (1) Prior to serving a statement of charges under RCW 18.130.090 or  
27 18.130.170, the disciplinary authority may furnish a statement of  
28 allegations to the licensee ((or applicant)) along with a detailed  
29 summary of the evidence relied upon to establish the allegations and a  
30 proposed stipulation for informal resolution of the allegations. These  
31 documents shall be exempt from public disclosure until such time as the  
32 allegations are resolved either by stipulation or otherwise.

33 (2) The disciplinary authority and the ((applicant or)) licensee  
34 may stipulate that the allegations may be disposed of informally in  
35 accordance with this subsection. The stipulation shall contain a  
36 statement of the facts leading to the filing of the complaint; the act

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

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

22 (4) Upon execution of a stipulation under subsection (2) of this  
23 section by both the licensee ((~~or applicant~~)) and the disciplinary  
24 authority, the complaint is deemed disposed of and shall become subject  
25 to public disclosure on the same basis and to the same extent as other  
26 records of the disciplinary authority. Should the licensee ((~~or~~  
27 ~~applicant~~)) fail to pay any agreed reimbursement within thirty days of  
28 the date specified in the stipulation for payment, the disciplinary  
29 authority may seek collection of the amount agreed to be paid in the  
30 same manner as enforcement of a fine under RCW 18.130.165.

31 **Sec. 25.** RCW 18.130.180 and 1995 c 336 s 9 are each amended to  
32 read as follows:

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

36 (1) The commission of any act involving moral turpitude,  
37 dishonesty, or corruption relating to the practice of the person's

1 profession, whether the act constitutes a crime or not. If the act  
2 constitutes a crime, conviction in a criminal proceeding is not a  
3 condition precedent to disciplinary action. Upon such a conviction,  
4 however, the judgment and sentence is conclusive evidence at the  
5 ensuing disciplinary hearing of the guilt of the license holder (~~(or~~  
6 ~~applicant~~)) of the crime described in the indictment or information,  
7 and of the person's violation of the statute on which it is based. For  
8 the purposes of this section, conviction includes all instances in  
9 which a plea of guilty or nolo contendere is the basis for the  
10 conviction and all proceedings in which the sentence has been deferred  
11 or suspended. Nothing in this section abrogates rights guaranteed  
12 under chapter 9.96A RCW;

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

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

16 (4) Incompetence, negligence, or malpractice which results in  
17 injury to a patient or which creates an unreasonable risk that a  
18 patient may be harmed. The use of a nontraditional treatment by itself  
19 shall not constitute unprofessional conduct, provided that it does not  
20 result in injury to a patient or create an unreasonable risk that a  
21 patient may be harmed;

22 (5) Suspension, revocation, or restriction of the individual's  
23 license to practice any health care profession by competent authority  
24 in any state, federal, or foreign jurisdiction, a certified copy of the  
25 order, stipulation, or agreement being conclusive evidence of the  
26 revocation, suspension, or restriction;

27 (6) The possession, use, prescription for use, or distribution of  
28 controlled substances or legend drugs in any way other than for  
29 legitimate or therapeutic purposes, diversion of controlled substances  
30 or legend drugs, the violation of any drug law, or prescribing  
31 controlled substances for oneself;

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

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

37 (a) Not furnishing any papers (~~(or)~~), documents, records, or other  
38 items;

1 (b) Not furnishing in writing a full and complete explanation  
2 covering the matter contained in the complaint filed with the  
3 disciplining authority;

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

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

10 (9) Failure to comply with an order issued by the disciplining  
11 authority or a stipulation for informal disposition entered into with  
12 the disciplining authority;

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

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

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

18 (13) Misrepresentation or fraud in any aspect of the conduct of the  
19 business or profession;

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

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

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

27 (17) Conviction of any gross misdemeanor or felony relating to the  
28 practice of the person's profession. For the purposes of this  
29 subsection, conviction includes all instances in which a plea of guilty  
30 or nolo contendere is the basis for conviction and all proceedings in  
31 which the sentence has been deferred or suspended. Nothing in this  
32 section abrogates rights guaranteed under chapter 9.96A RCW;

33 (18) The procuring, or aiding or abetting in procuring, a criminal  
34 abortion;

35 (19) The offering, undertaking, or agreeing to cure or treat  
36 disease by a secret method, procedure, treatment, or medicine, or the  
37 treating, operating, or prescribing for any health condition by a

1 method, means, or procedure which the licensee refuses to divulge upon  
2 demand of the disciplining authority;

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

5 (21) Violation of chapter 19.68 RCW;

6 (22) Interference with an investigation or disciplinary proceeding  
7 by willful misrepresentation of facts before the disciplining authority  
8 or its authorized representative, or by the use of threats or  
9 harassment against any patient or witness to prevent them from  
10 providing evidence in a disciplinary proceeding or any other legal  
11 action, or by the use of financial inducements to any patient or  
12 witness to prevent or attempt to prevent him or her from providing  
13 evidence in a disciplinary proceeding;

14 (23) Current misuse of:

15 (a) Alcohol;

16 (b) Controlled substances; or

17 (c) Legend drugs;

18 (24) Abuse of a client or patient or sexual contact with a client  
19 or patient;

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

27 **Sec. 26.** RCW 9.96A.020 and 1999 c 16 s 1 are each amended to read  
28 as follows:

29 (1) Subject to the exceptions in subsections (3) (~~and (4)~~)  
30 through (5) of this section, and unless there is another provision of  
31 law to the contrary, a person is not disqualified from employment by  
32 the state of Washington or any of its counties, cities, towns,  
33 municipal corporations, or quasi-municipal corporations, nor is a  
34 person disqualified to practice, pursue or engage in any occupation,  
35 trade, vocation, or business for which a license, permit, certificate  
36 or registration is required to be issued by the state of Washington or  
37 any of its counties, cities, towns, municipal corporations, or quasi-

1 municipal corporations solely because of a prior conviction of a  
2 felony. However, this section does not preclude the fact of any prior  
3 conviction of a crime from being considered.

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

18 (3) A person is disqualified for any certificate required or  
19 authorized under chapters 28A.405 or 28A.410 RCW, because of a prior  
20 guilty plea or the conviction of a felony involving sexual exploitation  
21 of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44  
22 RCW where a minor is the victim, promoting prostitution of a minor  
23 under chapter 9A.88 RCW, or a violation of similar laws of another  
24 jurisdiction, even if the time elapsed since the guilty plea or  
25 conviction is ten years or more.

26 (4) A person is disqualified from employment by school districts,  
27 educational service districts, and their contractors hiring employees  
28 who will have regularly scheduled unsupervised access to children,  
29 because of a prior guilty plea or conviction of a felony involving  
30 sexual exploitation of a child under chapter 9.68A RCW, sexual offenses  
31 under chapter 9A.44 RCW where a minor is the victim, promoting  
32 prostitution of a minor under chapter 9A.88 RCW, or a violation of  
33 similar laws of another jurisdiction, even if the time elapsed since  
34 the guilty plea or conviction is ten years or more.

35 (5) The provisions of this chapter do not apply to issuance of  
36 licenses or credentials for professions regulated under chapter 18.130  
37 RCW.

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

5       **Sec. 27.** RCW 9.95.240 and 2003 c 66 s 1 are each amended to read  
6 as follows:

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

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

30       (b) The clerk of the court in which the vacation order is entered  
31 shall immediately transmit the order vacating the conviction to the  
32 Washington state patrol identification section and to the local police  
33 agency, if any, which holds criminal history information for the person  
34 who is the subject of the conviction. The Washington state patrol and  
35 any such local police agency shall immediately update their records to  
36 reflect the vacation of the conviction, and shall transmit the order  
37 vacating the conviction to the federal bureau of investigation. A

1 conviction that has been vacated under this section may not be  
2 disseminated or disclosed by the state patrol or local law enforcement  
3 agency to any person, except other criminal justice enforcement  
4 agencies.

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

6 **Sec. 28.** RCW 43.43.825 and 2006 c 99 s 8 are each amended to read  
7 as follows:

8 (1) Upon a guilty plea or conviction of a person for any felony  
9 crime involving homicide under chapter 9A.32 RCW, assault under chapter  
10 9A.36 RCW, kidnapping under chapter 9A.40 RCW, ~~((or))~~ sex offenses  
11 under chapter 9A.44 RCW, financial crimes under chapter 9A.60 RCW,  
12 violations of the uniform controlled substances act under chapter 69.50  
13 RCW, any drug offense defined under RCW 9.94A.030, or a crime of any  
14 type classified as a felony under Washington state law, the prosecuting  
15 attorney shall notify the state patrol of such guilty pleas or  
16 convictions.

17 (2) When the state patrol receives information that a person has  
18 pled guilty to or been convicted of one of the felony crimes under  
19 subsection (1) of this section, the state patrol shall transmit that  
20 information to the department of health. It is the duty of the  
21 department of health to identify whether the person holds a credential  
22 issued by a disciplining authority listed under RCW 18.130.040, and  
23 provide this information to the disciplining authority that issued the  
24 credential to the person who pled guilty or was convicted of a crime  
25 listed in subsection (1) of this section.

26 NEW SECTION. **Sec. 29.** A new section is added to chapter 18.71 RCW  
27 to read as follows:

28 (1) The commission shall conduct a pilot project to evaluate the  
29 effect of granting the commission additional authority over budget  
30 development, spending, and staffing. The pilot project shall begin on  
31 July 1, 2008, and conclude on June 30, 2013.

32 (2) The pilot project shall include the following provisions:  
33 (a) That the secretary shall employ an executive director that is:  
34 (i) Hired by and serves at the pleasure of the commission;  
35 (ii) Exempt from the provisions of the civil service law, chapter

1 41.06 RCW and whose salary is established by the commission in  
2 accordance with RCW 43.03.028 and 42.17.370; and

3 (iii) Responsible for performing all administrative duties of the  
4 commission, including preparing an annual budget, and any other duties  
5 as delegated to the executive director by the commission;

6 (b) Consistent with the budgeting and accounting act:

7 (i) With regard to budget for the remainder of the 2007-2009  
8 biennium, the commission has authority to spend the remaining funds  
9 allocated with respect to its professions, physicians regulated under  
10 this chapter and physician assistants regulated under chapter 18.71A  
11 RCW; and

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

15 (c) That, prior to adopting credentialing fees under RCW 43.70.250,  
16 the secretary shall collaborate with the commission to determine the  
17 appropriate fees necessary to support the activities of the commission;

18 (d) That, prior to the secretary exercising the secretary's  
19 authority to adopt uniform rules and guidelines, or any other actions  
20 that might impact the licensing or disciplinary authority of the  
21 commission, the secretary shall first meet with the commission to  
22 determine how those rules or guidelines, or changes to rules or  
23 guidelines, might impact the commission's ability to effectively carry  
24 out its statutory duties. If the commission, in consultation with the  
25 secretary, determines that the proposed rules or guidelines, or changes  
26 to existing rules or guidelines, will negatively impact the  
27 commission's ability to effectively carry out its statutory duties,  
28 then the individual commission shall collaborate with the secretary to  
29 develop alternative solutions to mitigate the impacts. If an  
30 alternative solution cannot be reached, the parties may resolve the  
31 dispute through a mediator as set forth in (f) of this subsection;

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

36 (f) That in the event there is a disagreement between the  
37 commission and the secretary, that is unable to be resolved through

1 negotiation, a representative of both parties shall agree on the  
2 designation of a third party to mediate the dispute.

3 (3) By December 15, 2013, the secretary, the commission, and the  
4 other commissions conducting similar pilot projects under sections 30  
5 through 32 of this act, shall report to the governor and the  
6 legislature on the results of the pilot project. The report shall:

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

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

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

21 (d) Evaluate each commission's regulatory activities, including  
22 timelines, consistency of decision making, and performance levels in  
23 comparison to other disciplining authorities; and

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

26 (4) The secretary shall employ staff that are hired and managed by  
27 the executive director provided that nothing contained in this section  
28 may be construed to alter any existing collective bargaining unit or  
29 the provisions of any existing collective bargaining agreement.

30 NEW SECTION. **Sec. 30.** A new section is added to chapter 18.79 RCW  
31 to read as follows:

32 (1) The commission shall conduct a pilot project to evaluate the  
33 effect of granting the commission additional authority over budget  
34 development, spending, and staffing. The pilot project shall begin on  
35 July 1, 2008, and conclude on June 30, 2013.

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

37 (a) That the secretary shall employ an executive director that is:

1 (i) Hired by and serves at the pleasure of the commission;

2 (ii) Exempt from the provisions of the civil service law, chapter  
3 41.06 RCW and whose salary is established by the commission in  
4 accordance with RCW 43.03.028 and 42.17.370; and

5 (iii) Responsible for performing all administrative duties of the  
6 commission, including preparing an annual budget, and any other duties  
7 as delegated to the executive director by the commission;

8 (b) Consistent with the budgeting and accounting act:

9 (i) With regard to budget for the remainder of the 2007-2009  
10 biennium, the commission has authority to spend the remaining funds  
11 allocated with respect to advanced registered nurses, registered  
12 nurses, and licensed practical nurses regulated under this chapter; and

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

16 (c) That, prior to adopting credentialing fees under RCW 43.70.250,  
17 the secretary shall collaborate with the commission to determine the  
18 appropriate fees necessary to support the activities of the commission;

19 (d) That, prior to the secretary exercising the secretary's  
20 authority to adopt uniform rules and guidelines, or any other actions  
21 that might impact the licensing or disciplinary authority of the  
22 commission, the secretary shall first meet with the commission to  
23 determine how those rules or guidelines, or changes to rules or  
24 guidelines, might impact the commission's ability to effectively carry  
25 out its statutory duties. If the commission, in consultation with the  
26 secretary, determines that the proposed rules or guidelines, or changes  
27 to existing rules or guidelines, will negatively impact the  
28 commission's ability to effectively carry out its statutory duties,  
29 then the individual commission shall collaborate with the secretary to  
30 develop alternative solutions to mitigate the impacts. If an  
31 alternative solution cannot be reached, the parties may resolve the  
32 dispute through a mediator as set forth in (f) of this subsection;

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

37 (f) That in the event there is a disagreement between the

1 commission and the secretary, that is unable to be resolved through  
2 negotiation, a representative of both parties shall agree on the  
3 designation of a third party to mediate the dispute.

4 (3) By December 15, 2013, the secretary, the commission, and the  
5 other commissions conducting similar pilot projects under sections 29,  
6 31, and 32 of this act, shall report to the governor and the  
7 legislature on the results of the pilot project. The report shall:

8 (a) Compare the effectiveness of licensing and disciplinary  
9 activities of each commission during the pilot project with the  
10 licensing and disciplinary activities of the commission prior to the  
11 pilot project and the disciplinary activities of other disciplining  
12 authorities during the same time period as the pilot project;

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

18 (c) Compare the budgetary activity of each commission during the  
19 pilot project to the budgetary activity of the commission prior to the  
20 pilot project and to the budgetary activity of other disciplining  
21 authorities during the same period as the pilot project;

22 (d) Evaluate each commission's regulatory activities, including  
23 timelines, consistency of decision making, and performance levels in  
24 comparison to other disciplining authorities; and

25 (e) Review summaries of national research and data regarding  
26 regulatory effectiveness and patient safety.

27 (4) The secretary shall employ staff that are hired and managed by  
28 the executive director provided that nothing contained in this section  
29 may be construed to alter any existing collective bargaining unit or  
30 the provisions of any existing collective bargaining agreement.

31 NEW SECTION. **Sec. 31.** A new section is added to chapter 18.25 RCW  
32 to read as follows:

33 (1) The commission may conduct a pilot project to evaluate the  
34 effect of granting the commission additional authority over budget  
35 development, spending, and staffing. If the commission intends to  
36 conduct a pilot project, it must provide a notice in writing to the

1 secretary by June 1, 2008. If the commission chooses to conduct a  
2 pilot project, the pilot project shall begin on July 1, 2008, and  
3 conclude on June 30, 2013.

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

5 (a) That the secretary shall employ an executive director that is:

6 (i) Hired by and serves at the pleasure of the commission;

7 (ii) Exempt from the provisions of the civil service law, chapter  
8 41.06 RCW and whose salary is established by the commission in  
9 accordance with RCW 43.03.028 and 42.17.370; and

10 (iii) Responsible for performing all administrative duties of the  
11 commission, including preparing an annual budget, and any other duties  
12 as delegated to the executive director by the commission;

13 (b) Consistent with the budgeting and accounting act:

14 (i) With regard to budget for the remainder of the 2007-2009  
15 biennium, the commission has authority to spend the remaining funds  
16 allocated with respect to chiropractors licensed under this chapter;  
17 and

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

21 (c) That, prior to adopting credentialing fees under RCW 43.70.250,  
22 the secretary shall collaborate with the commission to determine the  
23 appropriate fees necessary to support the activities of the commission;

24 (d) That, prior to the secretary exercising the secretary's  
25 authority to adopt uniform rules and guidelines, or any other actions  
26 that might impact the licensing or disciplinary authority of the  
27 commission, the secretary shall first meet with the commission to  
28 determine how those rules or guidelines, or changes to rules or  
29 guidelines, might impact the commission's ability to effectively carry  
30 out its statutory duties. If the commission, in consultation with the  
31 secretary, determines that the proposed rules or guidelines, or changes  
32 to existing rules or guidelines, will negatively impact the  
33 commission's ability to effectively carry out its statutory duties,  
34 then the individual commission shall collaborate with the secretary to  
35 develop alternative solutions to mitigate the impacts. If an  
36 alternative solution cannot be reached, the parties may resolve the  
37 dispute through a mediator as set forth in (f) of this subsection;

1 (e) That the commission shall negotiate with the secretary to  
2 develop performance-based expectations, including identification of key  
3 performance measures. The performance expectations should focus on  
4 consistent, timely regulation of health care professionals; and

5 (f) That in the event there is a disagreement between the  
6 commission and the secretary, that is unable to be resolved through  
7 negotiation, a representative of both parties shall agree on the  
8 designation of a third party to mediate the dispute.

9 (3) By December 15, 2013, the secretary, the commission, and the  
10 other commissions conducting similar pilot projects under sections 29,  
11 30, and 32 of this act, shall report to the governor and the  
12 legislature on the results of the pilot project. The report shall:

13 (a) Compare the effectiveness of licensing and disciplinary  
14 activities of each commission during the pilot project with the  
15 licensing and disciplinary activities of the commission prior to the  
16 pilot project and the disciplinary activities of other disciplining  
17 authorities during the same time period as the pilot project;

18 (b) Compare the efficiency of each commission with respect to the  
19 timeliness and personnel resources during the pilot project to the  
20 efficiency of the commission prior to the pilot project and the  
21 efficiency of other disciplining authorities during the same period as  
22 the pilot project;

23 (c) Compare the budgetary activity of each commission during the  
24 pilot project to the budgetary activity of the commission prior to the  
25 pilot project and to the budgetary activity of other disciplining  
26 authorities during the same period as the pilot project;

27 (d) Evaluate each commission's regulatory activities, including  
28 timelines, consistency of decision making, and performance levels in  
29 comparison to other disciplining authorities; and

30 (e) Review summaries of national research and data regarding  
31 regulatory effectiveness and patient safety.

32 (4) The secretary shall employ staff that are hired and managed by  
33 the executive director provided that nothing contained in this section  
34 may be construed to alter any existing collective bargaining unit or  
35 the provisions of any existing collective bargaining agreement.

36 NEW SECTION. **Sec. 32.** A new section is added to chapter 18.32 RCW  
37 to read as follows:

1 (1) The commission may conduct a pilot project to evaluate the  
2 effect of granting the commission additional authority over budget  
3 development, spending, and staffing. If the commission intends to  
4 conduct a pilot project, it must provide a notice in writing to the  
5 secretary by June 1, 2008. If the commission chooses to conduct a  
6 pilot project, the pilot project shall begin on July 1, 2008, and  
7 conclude on June 30, 2013.

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

9 (a) That the secretary shall employ an executive director that is:

10 (i) Hired by and serves at the pleasure of the commission;

11 (ii) Exempt from the provisions of the civil service law, chapter  
12 41.06 RCW and whose salary is established by the commission in  
13 accordance with RCW 43.03.028 and 42.17.370; and

14 (iii) Responsible for performing all administrative duties of the  
15 commission, including preparing an annual budget, and any other duties  
16 as delegated to the executive director by the commission;

17 (b) Consistent with the budgeting and accounting act:

18 (i) With regard to budget for the remainder of the 2007-2009  
19 biennium, the commission has authority to spend the remaining funds  
20 allocated with respect to its professions, dentists licensed under this  
21 chapter and expanded function dental auxiliaries and dental assistants  
22 regulated under chapter 18.260 RCW; and

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

26 (c) That, prior to adopting credentialing fees under RCW 43.70.250,  
27 the secretary shall collaborate with the commission to determine the  
28 appropriate fees necessary to support the activities of the commission;

29 (d) That, prior to the secretary exercising the secretary's  
30 authority to adopt uniform rules and guidelines, or any other actions  
31 that might impact the licensing or disciplinary authority of the  
32 commission, the secretary shall first meet with the commission to  
33 determine how those rules or guidelines, or changes to rules or  
34 guidelines, might impact the commission's ability to effectively carry  
35 out its statutory duties. If the commission, in consultation with the  
36 secretary, determines that the proposed rules or guidelines, or changes  
37 to existing rules or guidelines, will negatively impact the  
38 commission's ability to effectively carry out its statutory duties,

1 then the individual commission shall collaborate with the secretary to  
2 develop alternative solutions to mitigate the impacts. If an  
3 alternative solution cannot be reached, the parties may resolve the  
4 dispute through a mediator as set forth in (f) of this subsection;

5 (e) That the commission shall negotiate with the secretary to  
6 develop performance-based expectations, including identification of key  
7 performance measures. The performance expectations should focus on  
8 consistent, timely regulation of health care professionals; and

9 (f) That in the event there is a disagreement between the  
10 commission and the secretary, that is unable to be resolved through  
11 negotiation, a representative of both parties shall agree on the  
12 designation of a third party to mediate the dispute.

13 (3) By December 15, 2013, the secretary, the commission, and the  
14 other commissions conducting similar pilot projects under sections 29  
15 through 31 of this act, shall report to the governor and the  
16 legislature on the results of the pilot project. The report shall:

17 (a) Compare the effectiveness of licensing and disciplinary  
18 activities of each commission during the pilot project with the  
19 licensing and disciplinary activities of the commission prior to the  
20 pilot project and the disciplinary activities of other disciplining  
21 authorities during the same time period as the pilot project;

22 (b) Compare the efficiency of each commission with respect to the  
23 timeliness and personnel resources during the pilot project to the  
24 efficiency of the commission prior to the pilot project and the  
25 efficiency of other disciplining authorities during the same period as  
26 the pilot project;

27 (c) Compare the budgetary activity of each commission during the  
28 pilot project to the budgetary activity of the commission prior to the  
29 pilot project and to the budgetary activity of other disciplining  
30 authorities during the same period as the pilot project;

31 (d) Evaluate each commission's regulatory activities, including  
32 timelines, consistency of decision making, and performance levels in  
33 comparison to other disciplining authorities; and

34 (e) Review summaries of national research and data regarding  
35 regulatory effectiveness and patient safety.

36 (4) The secretary shall employ staff that are hired and managed by  
37 the executive director provided that nothing contained in this section

1 may be construed to alter any existing collective bargaining unit or  
2 the provisions of any existing collective bargaining agreement.

3 **Sec. 33.** RCW 18.71.0191 and 1994 sp.s. c 9 s 326 are each amended  
4 to read as follows:

5 Except as provided in section 29 of this act for the duration of  
6 the pilot project, the secretary of the department of health shall  
7 appoint, from a list of three names supplied by the commission, an  
8 executive director who shall act to carry out the provisions of this  
9 chapter. The secretary shall also employ such additional staff  
10 including administrative assistants, investigators, and clerical staff  
11 as are required to enable the commission to accomplish its duties and  
12 responsibilities. The executive director is exempt from the provisions  
13 of the civil service law, chapter 41.06 RCW, as now or hereafter  
14 amended.

15 **Sec. 34.** RCW 18.79.130 and 1994 sp.s. c 9 s 413 are each amended  
16 to read as follows:

17 Except as provided in section 30 of this act for the duration of  
18 the pilot project, the secretary shall appoint, after consultation with  
19 the commission, an executive director who shall act to carry out this  
20 chapter. The secretary shall also employ such professional,  
21 secretarial, clerical, and other assistants as may be necessary to  
22 effectively administer this chapter. The secretary shall fix the  
23 compensation and provide for travel expenses for the executive director  
24 and all such employees, in accordance with RCW 43.03.050 and 43.03.060.

25 NEW SECTION. **Sec. 35.** Sections 33 and 34 of this act expire June  
26 30, 2013.

27 NEW SECTION. **Sec. 36.** Section 17 of this act expires July 1,  
28 2008.

29 NEW SECTION. **Sec. 37.** Section 18 of this act takes effect July 1,  
30 2008.

31 NEW SECTION. **Sec. 38.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 39.** The code reviser is directed to put the  
5 defined terms in RCW 18.130.020 in alphabetical order.

6 ***\*NEW SECTION. Sec. 40. Except for sections 2 and 18 of this act,  
7 which take effect July 1, 2008, and for section 12 of this act, which  
8 takes effect January 1, 2009, this act is necessary for the immediate  
9 preservation of the public peace, health, or safety, or support of the  
10 state government and its existing public institutions, and takes effect  
11 immediately.***

*\*Sec. 40 was vetoed. See message at end of chapter.*

Passed by the House March 8, 2008.

Passed by the Senate March 6, 2008.

Approved by the Governor March 25, 2008, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State March 25, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 40, Fourth  
Substitute House Bill 1103 entitled:

"AN ACT Relating to health professions."

This bill ensures that all health care providers in Washington State  
are well-qualified by strengthening the state's standards for  
credentialing and disciplining providers.

Section 40 is an emergency clause. Fourth Substitute House Bill 1103  
increases the authority of regulators to remove health care  
practitioners who pose a risk to the public but does not necessitate  
an emergency clause. An emergency clause is to be used where it is  
necessary for the immediate preservation of the public peace, health  
or safety or whenever it is essential for the support of state  
government. I do not believe that an emergency clause is needed.

For this reason, I have vetoed Section 40 of Fourth Substitute House  
Bill 1103.

With the exception of Section 40, Fourth Substitute House Bill 1103  
is approved."