

initial decision by the secretary when he or she makes the final decision shall be done on the same basis as specified under RCW 34.04.130 (5) and (6) for superior court review of an administrative decision and in addition findings and inferences to be sustained must be supported by substantial evidence. The secretary cannot delegate the authority to make the final decision. Any person aggrieved by the final administrative decision is entitled to judicial review in accordance with the provisions of chapter 34.04 RCW governing judicial review in a contested case except that if substantial rights have been prejudiced, administrative findings, inferences, conclusions or decisions may be reversed, modified, or remanded if not supported by substantial evidence rather than requiring them to be arbitrary or capricious.

A placement decision shall not be implemented at any level during any period during which an appeal can be taken or while an appeal is pending and undecided, unless authorized by court order so long as the appeal is being diligently pursued.

The department of social and health services shall periodically evaluate at reasonable intervals the adjustment of the resident to the specific placement to determine whether the resident should be continued in the placement or returned to the institution or given a different placement.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 31, 1983.

Passed the House April 13, 1983.

Approved by the Governor April 19, 1983.

Filed in Office of Secretary of State April 19, 1983.

## CHAPTER 51

[Engrossed Senate Bill No. 3383]

### PROFESSIONAL CORPORATIONS—ELIGIBLE PERSONS—SHAREHOLDER REGULATIONS

AN ACT Relating to professional corporations; amending section 11.36.010, chapter 145, Laws of 1965 as amended by section 14, chapter 3, Laws of 1983 and RCW 11.36.010; amending section 3, chapter 122, Laws of 1969 and RCW 18.100.030; amending section 6, chapter 122, Laws of 1969 and RCW 18.100.060; amending section 9, chapter 122, Laws of 1969 and RCW 18.100.090; amending section 11, chapter 122, Laws of 1969 and RCW 18.100.110; amending section 13, chapter 122, Laws of 1969 and RCW 18.100.130; adding new sections to chapter 18.100 RCW; and repealing section 1, chapter 57, Laws of 1971 and RCW 18.100.135.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11.36.010, chapter 145, Laws of 1965 as amended by section 14, chapter 3, Laws of 1983 and RCW 11.36.010 are each amended to read as follows:

The following persons are not qualified to act as personal representatives: Corporations, minors, persons of unsound mind, or persons who have been convicted of any felony or of a misdemeanor involving moral turpitude: PROVIDED, That trust companies regularly organized under the laws of this state and national banks when authorized so to do may act as the personal representative of decedents' or incompetents' estates upon petition of any person having a right to such appointment and may act as executors or guardians when so appointed by will: PROVIDED FURTHER, That professional service corporations regularly organized under the laws of this state whose shareholder or shareholders are exclusively attorneys may act as personal representatives. (~~But~~) No trust company or national bank (~~shall be entitled to~~) may qualify as such executor or guardian under any will hereafter drawn by it(;) or its agents or employees, and no salaried attorney of any such company (~~shall~~) may be allowed any attorney fee for probating any such will(;) or in relation to the administration or settlement of any such estate, and no part of any attorney fee (~~shall~~) may inure, directly or indirectly, to the benefit of any trust company or national bank. (~~And~~) When any person to whom letters testamentary or of administration have been issued becomes disqualified to act because of becoming of unsound mind(;) or being convicted of any crime or misdemeanor involving moral turpitude, the court having jurisdiction shall revoke his or her letters. A nonresident may be appointed to act as personal representative if (~~he~~) the nonresident (~~shall~~) appoints an agent(;) who is a resident of the county where such estate is being probated(;) or(;) who is an attorney of record of the estate, upon whom service of all papers may be made; such appointment to be made in writing and filed by the clerk with other papers of such estate; and, unless bond has been waived as provided by RCW 11.28.185, such nonresident personal representative shall file a bond to be approved by the court.

Sec. 2. Section 3, chapter 122, Laws of 1969 and RCW 18.100.030 are each amended to read as follows:

As used in this chapter the following words shall have the meaning indicated:

(1) The term "professional service" (~~shall~~) means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which prior to the passage of this chapter and by reason of law could not be performed by a corporation, including, but not by way of limitation, certified public accountants, chiropractors, dentists, osteopaths, physicians, podiatrists, chiropodists, architects, veterinarians and attorneys at law.

(2) The term "professional corporation" means a corporation which is organized under this chapter for the purpose of rendering professional service (~~and which has as its shareholder or shareholders only individuals who~~

~~themselves are duly licensed or otherwise legally authorized within this state to render the same professional service as the corporation)).~~

(3) The term "ineligible person" means any individual, corporation, partnership, fiduciary, trust, association, government agency, or other entity which for any reason is or becomes ineligible under this chapter to own shares issued by a professional corporation.

Sec. 3. Section 6, chapter 122, Laws of 1969 and RCW 18.100.060 are each amended to read as follows:

No corporation organized ~~((and incorporated))~~ under this chapter may render professional services except through ~~((its directors, officers, employees or agents all of whom must be))~~ individuals who are duly licensed or otherwise legally authorized to render such professional services within this state: PROVIDED, That ((said term "employees" shall not)) nothing in this chapter shall be interpreted to ((mean)) require the licensing of clerks, secretaries, bookkeepers, technicians, and other assistants employed by a professional corporation who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

Sec. 4. Section 9, chapter 122, Laws of 1969 and RCW 18.100.090 are each amended to read as follows:

Except as otherwise provided in section 11 of this 1983 act, no professional ((service)) corporation organized under the provisions of this chapter may issue any of its capital stock to anyone other than an individual who is duly licensed or otherwise legally authorized to render the same specific professional services within this state as those for which the corporation was incorporated. ((No shareholder of a corporation organized under this chapter shall enter into a voting trust agreement or any other type agreement vesting another person with the authority to exercise the voting power of any or all of his stock.))

Sec. 5. Section 11 chapter 122, Laws of 1969 and RCW 18.100.110 are each amended to read as follows:

No shareholder of a corporation organized as a professional ~~((service))~~ corporation may sell or transfer his shares in such corporation except to another individual who is eligible to be a shareholder of such corporation. ~~((The articles of incorporation of a professional service corporation shall require that each shareholder in the corporation provide for a redemption or cancellation of all shares which are transferred to any person or entity ineligible to be a shareholder, whether such transfer be voluntary, involuntary or by operation of law))~~ Any transfer of shares in violation of this section shall be void. However, nothing in this section prohibits the transfer of shares of a professional corporation by operation of law or court decree.

Sec. 6. Section 13, chapter 122, Laws of 1969 and RCW 18.100.130 are each amended to read as follows:

The provisions of Title 23A RCW shall be applicable to a corporation organized pursuant to this chapter except to the extent that any of the provisions of this chapter are interpreted to be in conflict with the provisions thereof, and in such event the provisions and sections of this chapter shall take precedence with respect to a corporation organized pursuant to the provisions of this chapter. (~~(A professional corporation organized under this chapter shall consolidate or merge only with another domestic professional corporation organized under this chapter to render the same specific professional service and a merger or consolidation with any foreign corporation is prohibited.)~~)

NEW SECTION. Sec. 7. There is added to chapter 18.100 RCW a new section to read as follows:

Except as otherwise provided in section 11 of this act, all directors of a corporation organized under this chapter and all officers other than the secretary and the treasurer shall be duly licensed or otherwise legally authorized to render the same specific professional services within this state as those for which the corporation was incorporated.

NEW SECTION. Sec. 8. There is added to chapter 18.100 RCW a new section to read as follows:

(1) A corporation organized under this chapter may merge or consolidate with another corporation, domestic or foreign, organized to render the same specific professional services, only if every shareholder of each corporation is eligible to be a shareholder of the surviving or new corporation.

(2) Upon the merger or consolidation of a corporation organized under this chapter, the surviving or new corporation, as the case may be, may render professional services in this state only if it is organized under, and complies with, the provisions of this chapter.

NEW SECTION. Sec. 9. There is added to chapter 18.100 RCW a new section to read as follows:

A professional corporation may amend its articles of incorporation to delete from its stated purposes the rendering of professional services and to conform to the requirements of Title 23A RCW. Upon the effective date of such amendment, the corporation shall no longer be subject to the provisions of this chapter and shall continue in existence as a corporation under Title 23A RCW.

NEW SECTION. Sec. 10. There is added to chapter 18.100 RCW a new section to read as follows:

If a shareholder of a professional corporation dies, or if shares of a professional corporation are transferred by operation of law or court decree to an ineligible person, and if the shares held by the deceased shareholder or by such ineligible person are less than all of the outstanding shares of the corporation:

(1) The shares held by the deceased shareholder or by the ineligible person may be transferred to remaining shareholders of the corporation or may be redeemed by the corporation pursuant to terms stated in the articles of incorporation or by laws of the corporation, or in a private agreement. In the absence of any such terms, such shares may be transferred to any individual eligible to be a shareholder of the corporation.

(2) If such a redemption or transfer of the shares held by a deceased shareholder or an ineligible person is not completed within twelve months after the death of the deceased shareholder or the transfer, as the case may be, such shares shall be deemed to be shares with respect to which the holder has elected to exercise the right of dissent described in RCW 23A.24.040 and has made written demand on the corporation for payment of the fair value of such shares. The corporation shall forthwith cancel the shares on its books and the deceased shareholder or ineligible person shall have no further interest in the corporation other than the right to payment for the shares as is provided in RCW 23A.24.040. For purposes of the application of RCW 23A.24.040, the date of the corporate action and the date of the shareholder's written demand shall be deemed to be one day after the date on which the twelve-month period from the death of the deceased shareholder, or from the transfer, expires.

NEW SECTION. Sec. 11. There is added to chapter 18.100 RCW a new section to read as follows:

If all of the outstanding shares of a professional corporation are held by an administrator, executor, guardian, conservator, or receiver of the estate of a former shareholder, or by a transferee who received such shares by operation of law or court decree, such administrator, executor, guardian, conservator, receiver, or transferee for a period of twelve months following receipt or transfer of such shares may be a director, officer, or shareholder of the professional corporation.

NEW SECTION. Sec. 12. There is added to chapter 18.100 RCW a new section to read as follows:

A proxy, voting trust, or other voting agreement with respect to shares of a professional corporation shall not be valid unless all holders thereof, all trustees and beneficiaries thereof, or all parties thereto, as the case may be, are eligible to be shareholders of the corporation.

NEW SECTION. Sec. 13. Section 1, chapter 57, Laws of 1971 and RCW 18.100.135 are each repealed.

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Passed the House April 11, 1983.

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