

policies for students who complete Washington state community college associate degrees.

**NEW SECTION.** Sec. 21. There is added to chapter 223, Laws of 1969 ex. sess. and to chapter 28A.03 RCW a new section to read as follows:

The superintendent of public instruction is authorized to grant funds to selected school districts to assist in the development of innovative programs for the retention of students in the common school system.

**NEW SECTION.** Sec. 22. Implementation of sections 5, 11, and 21 of this act and the amendment to RCW 28A.03.360 by section 8 of this act are each subject to funds being appropriated or available for such purpose or purposes.

**NEW SECTION.** Sec. 23. Sections 16, 18, and 19 of this act shall take effect July 1, 1986.

**NEW SECTION.** Sec. 24. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 8, 1984.

Passed the Senate March 8, 1984.

Approved by the Governor March 29, 1984.

Filed in Office of Secretary of State March 29, 1984.

## CHAPTER 279

[Substitute House Bill No. 1178]

### HEALTH AND HEALTH-RELATED PROFESSIONS AND BUSINESSES— CONSOLIDATION OF DISCIPLINARY PROCEDURES

AN ACT Relating to the regulation of health and health-related professions and businesses; amending section 1, chapter 52, Laws of 1971 as amended by section 104, chapter 158, Laws of 1979 and RCW 43.24.140; amending section 1, chapter 53, Laws of 1959 as last amended by section 1, chapter 51, Laws of 1980 and RCW 18.25.015; amending section 2, chapter 112, Laws of 1935 as last amended by section 1, chapter 38, Laws of 1979 and RCW 18.32.035; amending section 6, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.560; amending section 12, chapter 43, Laws of 1957 as amended by section 35, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.34.120; amending section 9, chapter 93, Laws of 1977 ex. sess. as amended by section 11, chapter 43, Laws of 1981 and RCW 18.108.020; amending section 3, chapter 25, Laws of 1963 and RCW 18.54.030; amending section 4, chapter 208, Laws of 1973 1st ex. sess. as last amended by section 13, chapter 338, Laws of 1981 and RCW 18.73.040; amending section 2, chapter 280, Laws of 1975 1st ex. sess. as amended by section 57, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 18.108.020; amending section 2, chapter 168, Laws of 1983 and RCW 18.120.020; amending section 43.24.110, chapter 8, Laws of 1965 as last amended by section 101, chapter 158, Laws of 1979 and RCW 43.24.110; amending section 12, chapter 5, Laws of 1977 ex. sess. and RCW 18.32.620; amending section 1, chapter 305, Laws of 1955 as last amended by section 67, chapter 158, Laws of 1979 and RCW 18.83.010; amending section 5, chapter 305, Laws of 1955 as amended by section 5, chapter 70, Laws of 1965 and RCW 18.83.050; amending section 6, chapter 305, Laws of 1955 as last amended by section 72, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.060; amending section 7, chapter 305, Laws of 1955 as amended by section 7, chapter 70, Laws of 1965 and RCW 18.83.070; amending section 20, chapter 70, Laws of 1965 as amended by section 15,

chapter 266, Laws of 1971 ex. sess. and RCW 18.83.072; amending section 23, chapter 70, Laws of 1965 as amended by section 73, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.082; amending section 9, chapter 305, Laws of 1955 as last amended by section 1, chapter 58, Laws of 1977 and RCW 18.83.090; amending section 13, chapter 305, Laws of 1955 as amended by section 12, chapter 70, Laws of 1965 and RCW 18.83.120; amending section 12, chapter 305, Laws of 1955 as amended by section 13, chapter 70, Laws of 1965 and RCW 18.83.130; amending section 17, chapter 305, Laws of 1955 as last amended by section 76, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.170; amending section 3, chapter 57, Laws of 1970 ex. sess. and RCW 18.52.030; amending section 7, chapter 57, Laws of 1970 ex. sess. as last amended by section 2, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.070; amending section 7, chapter 57, Laws of 1970 ex. sess. as last amended by section 65 of this 1984 act and RCW 18.52.070; amending section 9, chapter 57, Laws of 1970 ex. sess. as amended by section 3, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.090; amending section 11, chapter 57, Laws of 1970 ex. sess. as last amended by section 54, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.52.110; amending section 12, chapter 57, Laws of 1970 ex. sess. as last amended by section 5, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.120; amending section 17, chapter 57, Laws of 1970 ex. sess. and RCW 18.52.160; adding a new chapter to Title 18 RCW; adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.25 RCW; adding a new section to chapter 18.26 RCW; adding new sections to chapter 18.29 RCW; adding new sections to chapter 18.32 RCW; adding a new section to chapter 18.34 RCW; adding a new section to chapter 18.35 RCW; adding a new section to chapter 18.36 RCW; adding a new section to chapter 18.39 RCW; adding a new section to chapter 18.50 RCW; adding new sections to chapter 18.52 RCW; adding a new section to chapter 18.54 RCW; adding a new section to chapter 18.55 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.72 RCW; adding a new section to chapter 18.74 RCW; adding a new section to chapter 18.78 RCW; adding new sections to chapter 18.83 RCW; adding a new section to chapter 18.88 RCW; adding a new section to chapter 18.92 RCW; adding a new section to chapter 18.108 RCW; adding new sections to chapter 18.120 RCW; adding a new section to chapter 43.131 RCW; creating a new section; repealing section 3, chapter 305, Laws of 1955, section 3, chapter 70, Laws of 1965, section 27, chapter 292, Laws of 1971 ex. sess. and RCW 18.83.030; repealing section 4, chapter 305, Laws of 1955, section 4, chapter 70, Laws of 1965 and RCW 18.83.040; repealing section 14, chapter 305, Laws of 1955, section 14, chapter 70, Laws of 1965 and RCW 18.83.140; repealing section 15, chapter 305, Laws of 1955, section 15, chapter 70, Laws of 1965 and RCW 18.83.150; repealing section 16, chapter 305, Laws of 1955, section 16, chapter 70, Laws of 1965, section 61, chapter 81, Laws of 1971 and RCW 18.83.160; repealing section 8, chapter 57, Laws of 1970 ex. sess., section 53, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.52.080; providing an effective date; and prescribing penalties.

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

**NEW SECTION.** Sec. 1. It is the intent of the legislature to strengthen and consolidate disciplinary procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts.

Further, the legislature declares that the addition of public members on all health care boards can give both the state and the public, which it has a statutory responsibility to protect, assurances of accountability and confidence in the various practices of health care.

**NEW SECTION.** Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Disciplining authority" means the agency or board having the authority to take disciplinary action against a holder of a professional or business license upon a finding of a violation of this chapter or the chapter under which the license is held.

(2) "Department" means the department of licensing.

(3) "Director" means the director of licensing.

(4) "Board" means any of those boards specified in section 4 of this act.

(5) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in section 4 of this act without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in section 4 of this act, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

(6) "Disciplinary action" means sanctions identified in section 16 of this act.

NEW SECTION. Sec. 3. The disciplinary authorities specified in section 4 of this act, in consultation with professional associations, may elect to adopt by rule this chapter in lieu of the disciplinary provisions outlined under their respective chapters.

NEW SECTION. Sec. 4. (1) This chapter applies only to the director and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

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

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Drugless healers licensed under chapter 18.36 RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Psychologists licensed under chapter 18.83 RCW unless a disciplinary committee is established under chapter 18.83 RCW;

(vi) Massage operators and businesses licensed under chapter 18.108 RCW; and

(vii) Dental hygienists licensed under chapter 18.29 RCW.

(b) The boards having authority under this chapter are as follows:

(i) The podiatry board as established in chapter 18.22 RCW;

(ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;

- (iii) The dental disciplinary board as established in chapter 18.32 RCW;
- (iv) The council on hearing aids as established in chapter 18.35 RCW;
- (v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;
- (vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
- (vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
- (viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
- (ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
- (x) The board of physical therapy as established in chapter 18.74 RCW;
- (xi) The board of occupational therapy practice as established in chapter 18. \_\_ RCW (chapter \_\_ (SB 3074), Laws of 1984);
- (xii) The board of practical nursing as established in chapter 18.78 RCW;
- (xiii) The board of nursing as established in chapter 18.88 RCW; and
- (xiv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter governs any investigation, hearing, or proceeding relating to denial of licensure by the disciplining authority, the board of chiropractic examiners, the board of dental examiners, and the board of medical examiners, if adopted pursuant to this chapter by the disciplinary authority.

NEW SECTION. Sec. 5. The disciplining authority has the following authority:

- (1) To adopt, amend, and rescind such rules as are deemed necessary to carry out this chapter;
- (2) To investigate all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

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

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

(5) To compel attendance of witnesses at hearings;

(6) In the course of investigating a complaint of unprofessional conduct, to conduct practice reviews;

(7) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the disciplining authority;

(8) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings. However, the disciplining authority shall make the final decision regarding disposition of the license;

(9) To use consultants or individual members of the boards to assist in the direction of investigations and issuance of statements of charges. However, the member of the board shall not subsequently participate in the hearing of the case;

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

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

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

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

(14) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement to not violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action.

NEW SECTION. Sec. 6. In addition to the authority specified in section 5 of this act, the director has the following additional authority:

(1) To hire such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) Upon the request of a board, to appoint pro tem members for the purpose of participating as members of one or more committees of the board in connection with proceedings specifically identified in the request.

Individuals so appointed must meet the same minimum qualifications as regular members of the board. While serving as board members pro tem, persons so appointed have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board. The chairperson of a committee shall be a regular member of the board. Committees have authority to act as directed by the board with respect to all matters concerning the review, investigation, and adjudication of all complaints, allegations, charges, and matters subject to the jurisdiction of the board. The authority to act through committees does not restrict the authority of the board to act as a single body at any phase of proceedings within the board's jurisdiction. Board committees may make interim orders and issue final decisions with respect to matters and cases delegated to the committee by the board. Final decisions may be appealed as provided in chapter 34.04 RCW;

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation and to establish fees to witnesses in any agency hearing or contested case as authorized by RCW 34.04.105(4).

NEW SECTION. Sec. 7. (1) The disciplining authority may adopt rules requiring any person, including, but not limited to, corporations, organizations, and federal, state, or local governmental agencies, to report to the disciplining authority any conviction, determination, or finding that a license holder has committed an act which constitutes unprofessional conduct, or to report information which indicates that the license holder may not be able to practice his or her profession with reasonable skill and safety to consumers as a result of a mental or physical condition.

(2) If a person fails to furnish a required report, the disciplining authority may petition the superior court of the county in which the person resides or is found, and the court shall issue to the person an order to furnish the required report. A failure to obey the order shall be punished by the court as civil contempt.

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

(4) The holder of a license subject to the jurisdiction of this chapter shall report to the disciplining authority any conviction, determination, or finding that the licensee has committed unprofessional conduct or is unable to practice with reasonable skill or safety. Failure to report within thirty days of notice of the conviction, determination, or finding constitutes grounds for disciplinary action.

NEW SECTION. Sec. 8. A person, firm, corporation, or public officer may submit a written complaint to the disciplining authority charging a license holder or applicant with unprofessional conduct and specifying the grounds therefor. If the disciplining authority determines that the complaint

merits investigation, or if the disciplining authority has reason to believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the disciplining authority shall investigate to determine whether there has been unprofessional conduct.

**NEW SECTION.** Sec. 9. (1) If the disciplining authority determines, upon investigation, that there is reason to believe a violation of section 18 of this act has occurred, a statement of charge or charges shall be prepared and served upon the license holder or applicant at the earliest practical time. The statement of charge or charges shall be accompanied by a notice that the license holder or applicant may request a hearing to contest the charge or charges. The license holder or applicant must file a request for hearing with the disciplining authority within twenty days after being served the statement of charges. The failure to request a hearing constitutes a default, whereupon the disciplining authority may enter a decision on the basis of the facts available to it.

(2) If a hearing is requested, the time of the hearing shall be fixed by the disciplining authority as soon as convenient, but not earlier than thirty days after service of the charges upon the license holder or applicant. A notice of hearing shall be issued at least twenty days prior to the hearing, specifying the time, date, and place of the hearing. The notice shall also notify the license holder or applicant that a record of the proceeding will be kept, that he or she will have the opportunity to appear personally and to have counsel present, with the right to produce witnesses, who will be subject to cross-examination, and evidence in his or her own behalf, to cross-examine witnesses testifying against him or her, to examine such documentary evidence as may be produced against him or her, to conduct depositions, and to have subpoenas issued by the disciplining authority.

**NEW SECTION.** Sec. 10. The procedures governing contested cases before agencies under chapter 34.04 RCW, the administrative procedure act, govern all hearings before the disciplining authority. The disciplining authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.04 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions.

**NEW SECTION.** Sec. 11. (1) In the event of a finding of unprofessional conduct, the disciplining authority shall prepare and serve findings of fact and an order as provided in RCW 34.04.120. If the license holder or applicant is found to have not committed unprofessional conduct, the disciplining authority shall forthwith prepare and serve findings of fact and an order of dismissal of the charges, including public exoneration of the licensee or applicant. The findings of fact and order shall be retained by the disciplining authority as a permanent record.

(2) The disciplining authority shall report the issuance of statements of charges and final orders in cases processed by the disciplining authority to:

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

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

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

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

(3) This section shall not be construed to require the reporting of any information which is exempt from public disclosure under chapter 42.17 RCW.

NEW SECTION. Sec. 12. The department shall not issue any license to any person whose license has been denied, revoked, or suspended by the disciplining authority except in conformity with the terms and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplining authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter.

NEW SECTION. Sec. 13. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.04 RCW, or an order of summary suspension entered under this chapter, shall take effect immediately upon its being served. The order, if appealed to the court, shall not be stayed pending the appeal unless the court to which the appeal is taken enters an order staying the order of the disciplining authority, which stay shall provide for terms necessary to protect the public.

NEW SECTION. Sec. 14. An individual who has been disciplined or whose license has been denied by a disciplining authority may appeal the decision as provided in chapter 34.04 RCW.

NEW SECTION. Sec. 15. A person whose license has been suspended or revoked under this chapter may petition the disciplining authority for reinstatement after an interval as determined by the disciplining authority in the order. The disciplining authority shall hold hearings on the petition and may deny the petition or may order reinstatement and impose terms and conditions as provided in section 16 of this act and issue an order of reinstatement. The disciplining authority may require successful completion of an examination as a condition of reinstatement.

NEW SECTION. Sec. 16. Upon a finding that a license holder or applicant has committed unprofessional conduct or is unable to practice with



reasonable skill and safety due to a physical or mental condition, the disciplining authority may issue an order providing for one or any combination of the following:

- (1) Revocation of the license;
- (2) Suspension of the license for a fixed or indefinite term;
- (3) Restriction or limitation on the license holder's practice;
- (4) The establishment of a requirement that the license holder satisfactorily complete a specific program of remedial education or treatment;
- (5) The monitoring of the license holder's practice by a supervisor approved by the disciplining authority;
- (6) Censure or reprimand;
- (7) Compliance with conditions of probation for a designated period of time;
- (8) Payment of a fine for each violation of this chapter, not to exceed one thousand dollars per violation. Funds received shall be placed in the health professions account;
- (9) Denial of the license request;
- (10) Corrective action by the license holder;
- (11) Refund of fees charged to the consumer by the license holder.

Any of the actions under this section may be totally or partly stayed by the disciplining authority. In determining what action is appropriate, the disciplining authority must first consider what sanctions are necessary to protect or compensate the public. Only after such provisions have been made may the disciplining authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

NEW SECTION. Sec. 17. (1) If the disciplining authority believes a license holder or applicant may be unable to practice with reasonable skill and safety to consumers by reason of any mental or physical condition, a statement of charges in the name of the disciplining authority shall be served on the license holder or applicant and notice shall also be issued providing an opportunity for a hearing. The hearing shall be limited to the sole issue of the capacity of the license holder or applicant to practice with reasonable skill and safety. If the disciplining authority determines that the license holder or applicant is unable to practice with reasonable skill and safety for one of the reasons stated in this subsection, the disciplining authority shall impose such sanctions under section 16 of this act as is deemed necessary to protect the public.

(2) In enforcing this section, the disciplining authority may require a license holder or applicant to submit to a mental or physical examination by one or more physicians, a psychological examination by one or more licensed psychologists designated by the disciplining authority, or any combination thereof. The cost of the examinations ordered by the disciplining

authority shall be paid out of the health professions account. In addition to any examinations ordered by the disciplining authority, the licensee may submit psychiatric, physical, or psychological examination reports from physicians or psychologists of the license holder's or applicant's choosing and expense. Failure of a license holder or applicant to submit to examination when directed constitutes grounds for immediate suspension or denial of the license, consequent upon which a default and final order may be entered without the taking of testimony or presentations of evidence, unless the failure was due to circumstances beyond the person's control. A determination by a court of competent jurisdiction that a license holder or applicant is mentally incompetent or mentally ill is presumptive evidence of the license holder's or applicant's inability to practice with reasonable skill and safety. An individual affected under this section shall at reasonable intervals be afforded an opportunity to demonstrate that the individual can resume competent practice with reasonable skill and safety to the consumer.

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

**NEW SECTION.** Sec. 18. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

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

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

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

(4) Incompetence, negligence, or use of any practice or procedure in the practice of the profession which creates an unreasonable risk of physical or mental harm or serious financial loss to the consumer;

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

(6) The possession, use, addiction to, prescription for use, diversion, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, or violation of any drug law, or prescribing drugs for oneself;

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

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

(a) Not furnishing any papers or documents;

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

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

(9) Failure to comply with an order issued by the disciplining authority or an assurance of discontinuance entered into with the disciplining authority;

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

(11) Wilful or repeated violations of rules established by any health agency or authority of the state or a political subdivision thereof;

(12) Practice beyond the scope of practice as defined by law;

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

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

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

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

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been

deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

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

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

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

(21) Violation of chapter 19.68 RCW;

(22) Interference with an investigation or disciplinary proceeding by wilful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action;

(23) Drunkenness or habitual intemperance in the use of alcohol or addiction to alcohol;

(24) Physical abuse or sexual contact with a client or patient.

**NEW SECTION.** Sec. 19. (1) The director shall investigate bona fide complaints concerning practice by unlicensed individuals of a profession requiring a license. In the investigation of the complaints, the director shall have the same authority as provided the director for the investigation of complaints against license holders. The director shall issue a cease and desist order to a person after notice and hearing and upon a determination that the person has violated this subsection. If the director makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. The cease and desist order shall not relieve the person so practicing without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any individual may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any individual practicing a licensed profession without a license from engaging in such practice until the required license is secured. However, the injunction shall not relieve the person so practicing without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Practice of a profession specified in section 4 of this act without a license, unless otherwise exempted by law, constitutes a gross misdemeanor.

NEW SECTION. Sec. 20. A person who attempts to obtain a license by wilful misrepresentation or fraudulent representation is guilty of a misdemeanor.

NEW SECTION. Sec. 21. The director, members of the boards, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties.

NEW SECTION. Sec. 22. If the disciplining authority determines or has cause to believe that a license holder has committed a crime, the disciplining authority shall, in addition to taking the appropriate administrative action, concurrently notify the attorney general or the county prosecuting attorney in the county in which the act took place of the facts known to the disciplining authority.

NEW SECTION. Sec. 23. The disciplinary authority shall submit a report to the legislature on January 1 of each odd-numbered year on its proceedings during the biennium, detailing the number of complaints made, investigated, and adjudicated and manner of disposition. The report may include recommendations for improving the disciplinary process, including proposed legislation. The department of licensing shall develop a uniform report format.

NEW SECTION. Sec. 24. This chapter shall be known and cited as the uniform disciplinary act.

Sec. 25. Section 1, chapter 52, Laws of 1971 as amended by section 104, chapter 158, Laws of 1979 and RCW 43.24.140 are each amended to read as follows:

Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the director of licensing may, from time to time, extend or otherwise modify the duration of ((a)) any licensing, certification, or registration period ((for the purpose of staggering renewal periods)), whether an initial or renewal period, if the director determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of licensing adopted in accordance with the provisions of chapter 34.04 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period.

NEW SECTION. Sec. 26. There is added to chapter 18.22 RCW a new section to read as follows:

The podiatry board may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 27. There is added to chapter 18.25 RCW a new section to read as follows:

The board of chiropractic examiners, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 28. There is added to chapter 18.26 RCW a new section to read as follows:

The chiropractic disciplinary board may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 29. There is added to chapter 18.29 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 30. There is added to chapter 18.32 RCW a new section to read as follows:

The board of dental examiners, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 31. There is added to chapter 18.32 RCW a new section to read as follows:

The dental disciplinary board may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 32. There is added to chapter 18.34 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 33. There is added to chapter 18.35 RCW a new section to read as follows:

The council on hearing aids may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 34. There is added to chapter 18.36 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 35. There is added to chapter 18.39 RCW a new section to read as follows:

The board of funeral directors and embalmers may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 36. There is added to chapter 18.50 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 37. There is added to chapter 18.52 RCW a new section to read as follows:

The board of examiners for nursing home administrators may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 38. There is added to chapter 18.54 RCW a new section to read as follows:

The optometry board may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 39. There is added to chapter 18.55 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 40. There is added to chapter 18.57 RCW a new section to read as follows:

The board of osteopathic medicine may elect to adopt by rule the uniform disciplinary act, chapter 18. RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

**NEW SECTION.** Sec. 41. There is added to chapter 18.71 RCW a new section to read as follows:

The board of medical examiners, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 42. There is added to chapter 18.72 RCW a new section to read as follows:

The medical disciplinary board may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 43. There is added to chapter 18.74 RCW a new section to read as follows:

The board of physical therapy may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 44. There is added to chapter 18.78 RCW a new section to read as follows:

The board of practical nursing may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 45. There is added to chapter 18.83 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 46. There is added to chapter 18.88 RCW a new section to read as follows:

The board of nursing may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 47. There is added to chapter 18.92 RCW a new section to read as follows:

The veterinary board of governors may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.

NEW SECTION. Sec. 48. There is added to chapter 18.108 RCW a new section to read as follows:

The disciplinary authority, in consultation with professional associations, may elect to adopt by rule the uniform disciplinary act, chapter 18.\_\_ RCW (sections 1 through 24 of this act), in lieu of the disciplinary provisions outlined under this chapter.



Sec. 49. Section 1, chapter 53, Laws of 1959 as last amended by section 1, chapter 51, Laws of 1980 and RCW 18.25.015 are each amended to read as follows:

There is hereby created a state board of chiropractic examiners consisting of ~~((three))~~ five practicing chiropractors and one consumer member to conduct examinations and perform duties as provided in this chapter.

Members of the board shall be appointed by the governor, who may consider such persons who are recommended for appointment by chiropractic associations of this state. For at least five years preceding the time of their appointment, and during their tenure of office, the members of the board must be actual residents of Washington, licensed to practice chiropractic in this state, and must be citizens of the United States.

~~((In order that the terms of members shall expire in succession, first members appointed shall serve as follows: One for a term of three years, one for a term of two years, and one for a term of one year; thereafter))~~ Appointments shall be for a term of three years. Vacancies of members shall be filled by the governor as in the case of original appointment, such appointee to hold office for the remainder of the unexpired term.

Sec. 50. Section 2, chapter 112, Laws of 1935 as last amended by section 1, chapter 38, Laws of 1979 and RCW 18.32.035 are each amended to read as follows:

There shall be a board of dental examiners consisting of nine practicing dentists and one consumer member, to be known as the Washington state board of dental examiners.

The members shall be appointed by the governor in the manner hereinafter set forth and at the time of their appointment upon said board must be actual residents of the state in active practice of dentistry or dental surgery as hereinafter defined and must have been for a period of five years or more legally licensed to practice dentistry or dental surgery in this state: PROVIDED, HOWEVER, That no person shall be eligible to appointment to said board who is in any way connected with or interested in any dental college or dental department of any institution of learning. ~~((Those members serving on the board on March 27, 1975 shall continue to hold office for the following terms: The terms of the two board members appointed in 1972 shall expire July 1, 1975; the terms of the two board members appointed in 1973 shall expire July 1, 1976, and the term of the board member appointed in 1974 shall expire July 1, 1977. Six members shall be appointed to the board and shall take office July 1, 1975: two members to serve a term of three years, two members to serve a term of four years and two members to serve a term of five years. The term of office of each such member shall be designated by the governor in his appointment. Thereafter, a))~~ Members shall be appointed to the board to serve for terms of five years from July 1 of the year in which they are appointed.

In case of a vacancy occurring on said board, such vacancy shall be filled by the governor as herein provided for the remainder of the term of the vacancy.

The board shall have the power to employ competent persons on a temporary basis to assist in conducting examinations for licensure.

The board shall have the authority to enter into compacts and agreements with other states and with organizations formed by several states, for the purpose of conducting multi-state licensing examinations. The board may enter into such compacts and agreements even though they would result in the examination of a candidate for a license in this state by an examiner or examiners from another state or states, and even though they would result in the examination of a candidate or candidates for a license in another state or states by an examiner or examiners from this state.

Sec. 51. Section 6, chapter 5, Laws of 1977 ex. sess. and RCW 18.32-.560 are each amended to read as follows:

There is hereby created the Washington state dental disciplinary board, which shall be composed of five members, each of whom shall be a resident of this state engaged in the active practice of dentistry and who shall have been licensed to practice dentistry in this state for a period of five years or more prior to appointment to the board. Of the five members appointed to the board, two members shall reside and engage in the active practice of dentistry east of the summit of the Cascade range and the other three members shall reside and engage in the active practice of dentistry west of the summit of the Cascade range.

The attorney general shall be counsel to the board and shall represent it in all legal proceedings.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board. The consumer member shall serve a term of six years commencing on October 1st.

Sec. 52. Section 12, chapter 43, Laws of 1957 as amended by section 35, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.34.120 are each amended to read as follows:

Each licensee hereunder shall pay an annual renewal registration fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, on or before the first day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. Any failure to pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director and payment of a penalty determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, together with all delinquent annual license renewal fees. In addition, the director of licensing may adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal.

Sec. 53. Section 9, chapter 93, Laws of 1977 ex. sess. as amended by section 11, chapter 43, Laws of 1981 and RCW 18.39.175 are each amended to read as follows:

Each member of the board of funeral directors and embalmers shall receive compensation of twenty-five dollars for each board meeting attended, together with travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

(1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;

(2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";

(3) To make findings and recommendations to the director on any and all matters relating to the enforcement of this chapter;

(4) To adopt, promulgate, and enforce reasonable rules; and

(5) To suspend or revoke any license, after proper hearing and notice to the licensee, if the licensee has committed any of the following:

(a) A crime involving moral turpitude and resulting in a conviction;

(b) Unprofessional conduct, which includes:

(i) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;

(ii) False or misleading advertising as a funeral director or embalmer;

(iii) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of pre-need funeral plans;

(iv) Employment by the licensee of persons known as "cappers," "steerers," or "solicitors" or other persons to obtain funeral directing or embalming business;

(v) Employment directly or indirectly of any person for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;

(vi) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants, or employees, for the purpose of securing business;

(vii) Aiding or abetting an unlicensed person to practice funeral directing or embalming;

(viii) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum, or cemetery;

(ix) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of a dead human body without the written consent of next of kin;

(x) Violation of any of the provisions of this chapter or the rules in support thereof;

(xi) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies;

(xii) Fraud or misrepresentation in obtaining a license;

(xiii) Refusing to promptly surrender the custody of a dead human body upon the express order of the person lawfully entitled to its custody;

(xiv) Selling, or offering for sale, a share, certificate, or an interest in the business of any funeral director or embalmer, or in any corporation, firm, or association owning or operating a funeral establishment, which promises or purports to give to purchasers a right to the services of the funeral director, embalmer, or corporation, firm, or association at a charge or cost less than that offered or given to the public; or

(xv) Knowingly concealing information concerning a violation of this chapter;

(6) To adopt rules establishing mandatory continuing education requirements to be met by persons applying for license renewal.

Sec. 54. Section 3, chapter 25, Laws of 1963 and RCW 18.54.030 are each amended to read as follows:

The initial composition of the optometry board includes the three members of the examining committee for optometry plus two more optometrists to be appointed by the governor.

The governor must make all appointments to the optometry board. Only optometrists who are citizens of the United States, residents of this state, having been licensed to practice and practicing optometry in this state for a period of at least four years immediately preceding the effective date of appointment, and who have no connection with any school or college embracing the teaching of optometry or with any optical supply business may be appointed.

The governor may set the terms of office of the initial board at his discretion, to establish the following perpetual succession: The terms of the initial board include one position for one year, two for two years and two for three years; and upon the expiration of the terms of the initial board, all appointments are for three years.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

In the event that a vacancy occurs on the board in the middle of an appointee's term, the governor must appoint a successor for the unexpired portion of the term only.

Sec. 55. Section 4, chapter 208, Laws of 1973 1st ex. sess. as last amended by section 13, chapter 338, Laws of 1981 and RCW 18.73.040 are each amended to read as follows:

There is created an emergency medical services committee of nine members to be appointed by the governor. Members of the committee shall be persons knowledgeable in specific and general aspects of emergency medical services. Members shall be appointed for a period of three years; except, that the first appointees shall serve for terms as follows: Five for three years, two for two years, and two for one year. Further, the terms of those members representing the same field shall not expire at the same time.

The committee shall elect a chairman and a vice chairman whose terms of office shall be for one year each. The chairman shall be ineligible for reelection after serving two consecutive terms.

The committee shall meet on call by the governor, the secretary or the chairman.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

All appointive members of the committee, in the performance of their duties, may be entitled to receive travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 56. Section 2, chapter 280, Laws of 1975 1st ex. sess. as amended by section 57, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 18.108.020 are each amended to read as follows:

The state massage examining board is hereby created. The board shall consist of three members who shall be appointed by the governor for a term of three years each. Each member shall be a resident of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be actively engaged in the practice of massage during their incumbency. Within thirty days after September 8, 1975, three members shall be appointed by the governor to serve one, two, and three years respectively.

In addition to the members specified in this section, the governor shall appoint a consumer member of the board, who shall serve for a term of three years.

In the event that a member cannot complete his term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive terms and shall qualify and receive a license pursuant to section 7, chapter 280, Laws of 1975 1st ex. sess. within ninety days of their appointment.

Subject to the approval of the director, the board shall have the power to promulgate rules and regulations not inconsistent with the law and which may be necessary for the performance of its duties. It shall be the duty of

the board to pass upon the qualifications of applicants for licenses, prepare the necessary examination questions and practical demonstrations, conduct examinations from time to time in such places as the director designates, and to determine the applicants who successfully passed the examination, and in turn notify the director of such determinations.

Each member of the board shall receive as compensation twenty-five dollars for each day's attendance at meetings of the board. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

Sec. 57. Section 2, chapter 168, Laws of 1983 and RCW 18.120.020 are each amended to read as follows:

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatry under chapter 18.22 RCW; chiropractic under chapters 18.25 and 18.26 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; drugless healing under chapter 18.36 RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ocularists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71, 18.71A, and 18.72 RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.78 RCW; psychologists under chapter 18.83 RCW; ((and)) registered nurses under chapter

18.88 RCW; veterinarians and animal technicians under chapter 18.92 RCW; and massage practitioners under chapter 18.108 RCW.

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

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

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

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

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

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

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

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

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

NEW SECTION. Sec. 58. There is added to chapter 18.120 RCW a new section to read as follows:

Requirements for licensees to engage in continuing education as a condition of continued licensure has not been proven to be an effective method of guaranteeing or improving the competence of licensees or the quality of care received by the consumer. The legislature has serious reservations concerning the appropriateness of mandated continuing education. Any legislative proposal which contains a continuing education requirement should be accompanied by evidence that such a requirement has been proven effective for the profession addressed in the legislation.

NEW SECTION. Sec. 59. There is added to chapter 18.120 RCW a new section to read as follows:

Applicant groups shall submit a written report explaining the factors enumerated in RCW 18.120.030 to the legislative committees of reference, copies of which shall be sent to the state health coordinating council and the department of licensing for review and comment. The state health coordinating council, in addition to the duties specified in RCW 70.38.065, shall make recommendations based on the report submitted by applicant groups to the extent requested by the legislative committees.

Sec. 60. Section 43.24.110, chapter 8, Laws of 1965 as last amended by section 101, chapter 158, Laws of 1979 and RCW 43.24.110 are each amended to read as follows:

Whenever there is filed ~~((with))~~ in a matter under the jurisdiction of the director of licensing any complaint charging that the holder of a license has been guilty of any act or omission which by the provisions of the law under which the license was issued would warrant the revocation thereof, verified in the manner provided by law, the director of licensing shall request the governor to appoint, and the governor shall appoint, two qualified practitioners of the profession or calling of the person charged, who, with the director or his duly appointed representative, shall constitute a committee to hear and determine the charges and, in case the charges are sustained, impose the penalty provided by law. In addition, the governor shall appoint a consumer member of the committee.

The decision of any ~~((two))~~ three members of such committee shall be the decision of the committee.

The appointed members of the committee shall receive twenty-five dollars per day for each day spent in the performance of their duties and in going to and returning from the place of hearing, and their travel expenses, in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

NEW SECTION. Sec. 61. By January 1, 1985, the department of licensing shall conduct a study and submit a report to the senate and house of representatives committees on social and health services on the extent to which the disciplinary authorities specified in section 4 of this act have



ected to adopt the provisions of the uniform disciplinary act, sections 1 through 24 of this act.

In close cooperation with the disciplinary authorities, the department shall identify those disciplinary provisions existing before the adoption of the new provisions, to determine which are not in conformity and which are useful to retain to supplement the uniform disciplinary act.

The department shall submit, for consideration by the legislative committees, proposed legislation conforming the disciplinary acts existing before the effective date of this act with those of the uniform disciplinary act and adopted by the disciplinary authorities.

In addition, the department shall study and make recommendations on the propriety of separating investigation and adjudication functions of the boards, and an assessment program of positive reinforcement for assuring the continuing competence of licensees practicing under the laws of the state.

Sec. 62. Section 12, chapter 5, Laws of 1977 ex. sess. and RCW 18-.32.620 are each amended to read as follows:

The board shall elect from its members a chairman, vice chairman, and secretary, who shall serve for one year and until their successors are elected and qualified. The board shall meet at least once a year or upon the call of the chairman at such times and places as the chairman shall designate. ((Three)) Four members shall constitute a quorum to transact business.

NEW SECTION. Sec. 63. There is added to chapter 18.29 RCW a new section to read as follows:

(1) Dental hygienists licensed under this chapter with two years' practical clinical experience with a licensed dentist within the preceding five years may be employed or retained by health care facilities to perform authorized dental hygiene operations and services without dental supervision, limited to removal of deposits and stains from the surfaces of the teeth, application of topical preventive or prophylactic agents, polishing and smoothing restorations, and performance of root planing and soft-tissue curettage, but shall not perform injections of anesthetic agents, administration of nitrous oxide, or diagnosis for dental treatment. The performance of dental hygiene operations and services in health care facilities shall be limited to patients, students, and residents of the facilities. For dental planning and dental treatment, dental hygienists shall refer patients to licensed dentists.

(2) For the purposes of this section, "health care facilities" are limited to hospitals; nursing homes; home health agencies; group homes serving the elderly, handicapped, and juveniles; state-operated institutions under the jurisdiction of the department of social and health services or the department of corrections; and federal, state, and local public health facilities.

*\*Sec. 64. Section 3, chapter 57, Laws of 1970 ex. sess. and RCW 18.52.030 are each amended to read as follows:*

*~~((On or after July 1, 1970))~~ Nursing homes operating within this state must be under the active, overall administrative charge and supervision of an administrator licensed as provided in this chapter. An administrator may delegate functions and duties to other persons. No person acting in any capacity, unless he is the holder of a nursing home administrator's license issued under this chapter, shall be charged with the overall responsibility to make decisions or direct actions involved in managing the internal operation of a nursing home, except as specifically delegated in writing by the administrator to identify a responsible person to act on the administrator's behalf when the administrator is absent during the administrator's normal working hours. The administrator shall review the decisions upon the administrator's return and amend the decisions if necessary. Nothing in this chapter or the rules adopted under this chapter applies to a sanatorium or nursing home operated, or listed and certified, by any well-established and generally recognized church or religious denomination which teaches religious or spiritual means alone for healing through prayer.*

*\*Sec. 64. was vetoed, see message at end of chapter.*

*\*Sec. 65. Section 7, chapter 57, Laws of 1970 ex. sess. as last amended by section 2, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.070 are each amended to read as follows:*

*Upon the director's receipt of an application and examination fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, and completed application forms provided by the director, a nursing home administrator's license shall be issued to any person who:*

- (1) Is at least twenty-one years of age and of good moral character.*
- (2) Has presented evidence satisfactory to the board of practical experience, education, and training which, when evaluated according to criteria developed by the board, is equivalent to two years of experience in the operation of a nursing home: PROVIDED, That after January 1, 1980, no license shall be issued to any applicant unless such applicant has either successfully completed at least two years of formal education beyond the high school level or holds an associate degree from a recognized institution of higher learning: PROVIDED FURTHER, That the educational degree required by this subsection may be waived for individuals who present evidence satisfactory to the board of sufficient practical experience.*

*(3) Has passed an examination administered by the board which shall be designed to test the candidate's competence to administer a nursing home on the basis of the candidate's formal ((instruction)) education and training or actual experience~~(: PROVIDED HOWEVER, That nothing in this chapter or the rules and regulations thereunder shall be construed to require an applicant for a license or provisional license as a nursing home administrator~~*

~~who is certified by any well established and generally recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions: PROVIDED FURTHER, That any such individual shall demonstrate in the process of application for the examination his membership in such church or religious denomination and his license shall indicate the limited extent of his authority to act as an administrator).~~

(4) The initial administrator members of the board shall be selected and appointed by the governor to meet the requirements of subsection (1) of this section and of RCW 18.52.040 and 18.52.050. The three nonadministrator members of the first board shall administer to the initial administrator members an appropriate examination, and the initial administrator members shall thereafter be issued their licenses under this chapter as nursing home administrators. The three nonadministrator members of the first board may exercise the powers of the board to carry out licensing of the initial administrator members, regardless of the normal quorum or procedural requirements for board action. The licensing of the initial administrator members of the first board shall be carried out within thirty days after appointment of the board, and in all events prior to April 1, 1970.

\*Sec. 65 was partially vetoed, see message end of chapter.

*\*Sec. 66. Section 7, chapter 57, Laws of 1970 ex. sess. as last amended by section 65 of this 1984 act and RCW 18.52.070 are each amended to read as follows:*

*Upon the director's receipt of an application and examination fee determined by the director as provided in RCW 43.24.086, and completed application forms provided by the director, a nursing home administrator's license shall be issued to any person who:*

- (1) Is at least twenty-one years of age and of good moral character.*
- (2) Has presented evidence satisfactory to the board of practical experience, education, and training which, when evaluated according to criteria developed by the board, is equivalent to two years of experience in the operation of a nursing home: PROVIDED, That after January 1, ((1980)) 1987, no license shall be issued to any new applicant unless such applicant has either successfully completed at least ((two)) four years of formal education beyond the high school level or holds ((an associate)) a B.A., B.S., or equivalent degree from a recognized institution of higher learning: PROVIDE FURTHER, That the educational degree required by this subsection may be waived for individuals who present evidence satisfactory to the board of sufficient practical experience.*

*(3) Has passed an examination administered by the board which shall be designed to test the candidate's competence to administer a nursing home on the basis of the candidate's formal education and training or actual experience.*

*(4) The initial administrator members of the board shall be selected and appointed by the governor to meet the requirements of subsection (1) of this section and of RCW 18.52.040 and 18.52.050. The three nonadministrator members of the first board shall administer to the initial administrator members an appropriate examination, and the initial administrator members shall thereafter be issued their licenses under this chapter as nursing home administrators. The three nonadministrator members of the first board may exercise the powers of the board to carry out licensing of the initial administrator members, regardless of the normal quorum or procedural requirements for board action. The licensing of the initial administrator members of the first board shall be carried out within thirty days after appointment of the board, and in all events prior to April 1, 1970.*

\*Sec. 66. was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 67. Section 66 of this act shall take effect January 1, 1987.*

\*Sec. 67. was vetoed, see message at end of chapter.

Sec. 68. Section 9, chapter 57, Laws of 1970 ex. sess. as amended by section 3, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.090 are each amended to read as follows:

The director shall have the administrative duty and responsibility to:

(1) Issue nursing home administrator's licenses to individuals who meet the licensing requirements of RCW 18.52.070 (~~(and 18.52.080)~~);

(2) Investigate complaints against nursing home administrators, and upon order of the board reprimand any licensee, or revoke, suspend, deny, or refuse to reregister the license of any licensee or applicant who fails to meet the applicable requirements of this chapter.

Sec. 69. Section 11, chapter 57, Laws of 1970 ex. sess. as last amended by section 54, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.52.110 are each amended to read as follows:

(1) Every holder of a nursing home administrator's license shall reregister it annually with the director on dates specified by the director by making application for reregistration on forms provided by the director. Such reregistration shall be granted automatically upon receipt of a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086. In the event that any license is not reregistered within thirty days after the date for reregistration specified by the director, the director shall, in accordance with rules prescribed by the board, give notice to the license holder, and may thereafter in accordance with rules prescribed by the board charge up to double the normal reregistration fee.

In the event that the license of an individual is not reregistered within ~~((three))~~ two years from the most recent date for reregistration it shall lapse and such individual must again apply for licensing and meet all requirements of this chapter for a new applicant. The board may prescribe rules for maintenance of a license at a reduced fee for temporary or permanent withdrawal or retirement from the active practice of nursing home administration.

(2) A condition of reregistration shall be the presentation of proof by the applicant that he has attended the number of classroom hours of approved educational programs, classes, seminars, or proceedings set by the board. The board shall have the power to approve programs, classes, seminars, or proceedings offered in this state or elsewhere by any accredited institution of higher learning or any national or local group or society if such programs, classes, seminars, or proceedings are reasonably related to the administration of nursing homes. The board shall establish rules and regulations providing that the applicant for reregistration may present such proofs yearly, or may obtain the cumulative number of required hours over a three year period and present such proofs over periods of three years. In no event shall the number of classroom hours required for any time period exceed the number of such board approved classroom hours reasonably available over such time period on an adult or continuing education basis to nonmatriculating participants in this state.

(3) An individual may obtain and reregister a license under this chapter although he does not actively engage in nursing home administration. The licensee shall meet requirements set by the board to ensure the individual's continued competency.

\*Sec. 70. Section 12, chapter 57, Laws of 1970 ex. sess. as last amended by section 5, chapter 243, Laws of 1977 ex. sess. and RCW 18-.52.120 are each amended to read as follows:

The director, after any notice and hearing before the board which may be required by law, and upon the order of the board, shall, subject to any deferral or condition ordered, refuse to reregister or shall suspend or revoke an administrator's license, or issue a reprimand as directed by the board, as provided in this chapter when proof has been submitted to the board that:

(1) The licensee has committed any fraud or material misrepresentation or concealment in obtaining or maintaining the license.

(2) The license was obtained due to the mistake or inadvertence of the board or the director.

***(3) The licensee has ~~((knowingly-or))~~ repeatedly violated any of the provisions of this chapter or of the rules promulgated by the board in accordance with this chapter or authorized or directed another so to act.***

***(4) The licensee has ~~((knowingly-or))~~ repeatedly violated rules promulgated by the department of social and health services or the state board of***

**health concerning patient care in a manner demonstrating a substantial disregard for patient health and safety.**

(5) The licensee is unable to administer a nursing home with due regard for patient health and safety by reason of habitual, intemperate use of alcohol, controlled substances, or other chemicals or materials; or the licensee is similarly incapacitated by mental illness, insanity, mental disorder, or some other condition (~~(or situation requiring entry of an order for a guardianship, and such mental status or the need of a guardianship has been determined to exist by a court of competent jurisdiction: PROVIDED, That the board, when considering cases under this subsection, shall endeavor to encourage the recovery and rehabilitation of the administrator and the maintenance of the administrator's livelihood, but always subject to the primary objective of protecting patient health and safety))~~ which creates an undue risk that the person would cause harm to other persons by being a nursing home administrator.

(6) The licensee has committed any (~~(acts which, whether or not criminal prosecutions occur, constitute fraud, forgery, wrongful obtaining of funds, theft, larceny by trick, scheme or device, assault in the first, second or third degree, bribery or corrupt influence, or solicitation or conspiracy to commit any of said offenses: PROVIDED, That if some form of intent is required to render any such acts criminal such intent shall also be required to permit action against the licensee under this subsection, and liability under this subsection may be determined pursuant to the principles of liability set forth in RCW 9A.08.020))~~ act involving moral turpitude, dishonesty, or corruption, committed in the course of his or her duties as a nursing home administrator, whether or not the act constitutes a crime.

(7) The licensee has been (~~(grossly))~~ negligent or has committed (~~(gross))~~ misconduct in the administration of a nursing home.

(8) The licensee has participated in or has offered or agreed to participate in, any arrangement whereby any payment or rebate is given to any party in return for the referral of a patient to the facility the licensee administers, or for referral by such licensee of a patient to any party for rendition of professional services to such patient.

(9) The licensee or applicant has previously been refused a license as an administrator or had renewal thereof refused, or has had such a license suspended or revoked by any competent state, federal, or foreign authority: PROVIDED, That a suspension, revocation, refusal to issue or refusal to reregister a license under this subsection must be based upon a showing in the record of such previous proceedings which would constitute a proper basis for the action proposed under the provisions of this chapter, and the licensee or applicant shall, on request, have the opportunity to challenge the fairness of the previous proceedings or the correctness of the factual determinations involved.

Administrators whose licenses have been revoked, or to whom reregistration has been refused, may, on subsequent application be licensed, re-licensed, or reregistered, according to such rules or regulations as may be prescribed by the board and according to standards prescribed by the board. Suspended licenses are automatically in force at the expiration of the period of suspension specified in the board's order, but must be reregistered in the normal course if they expire during the period of suspension.

\*Sec. 70 was partially vetoed, see message end of chapter.

Sec. 71. Section 17, chapter 57, Laws of 1970 ex. sess. and RCW 18.52.160 are each amended to read as follows:

~~((On or before March 15, 1970 the governor shall establish the first board which shall immediately meet for organizational purposes and shall thereafter))~~ The board shall meet as often as may be necessary to carry out the duties of the board under this chapter. ~~((The first examinations shall be administered and regular and provisional licenses shall be issued under this chapter prior to July 1, 1970. Thereafter))~~ Examinations shall be administered at intervals not less than semiannually and at such times and places as may be determined by the board. There shall not be a limit upon the number of times a candidate may take the required examination.

NEW SECTION. Sec. 72. There is added to chapter 18.52 RCW a new section to read as follows:

Members of the board and the board's staff shall be immune from liability in any suit in any action, civil or criminal, based upon their duties or other official acts performed in good faith as members or staff of the board, when the action is being brought by or on behalf of the person who is being evaluated.

NEW SECTION. Sec. 73. Section 8, chapter 57, Laws of 1970 ex. sess., section 53, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.52.080 are each repealed.

NEW SECTION. Sec. 74. Sections 1 through 24 of this act shall constitute a new chapter in Title 18 RCW.

Sec. 75. Section 1, chapter 305, Laws of 1955 as last amended by section 67, chapter 158, Laws of 1979 and RCW 18.83.010 are each amended to read as follows:

When used in this chapter:

(1) The "practice of psychology" means the application of established principles of learning, motivation, perception, thinking and emotional relationships to problems of evaluation, group relations and behavior adjustment, including but not limited to: (a) counseling and guidance; (b) use of psychotherapeutic techniques with clients who have adjustment problems in the family, at school, at work or in interpersonal relationships; (c) measuring and testing of personality, intelligence, aptitudes, emotions, public opinion, attitudes and skills.

This definition does not include the teaching of principles of psychology for accredited educational institutions, or the conduct of research in problems of human or animal behavior.

Nothing in this definition shall be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine and surgery as defined in chapter 18.71 RCW.

(2) "Director" means director of licensing.

(3) "Board" means the ~~((board of psychologist examiners created by this chapter))~~ examining board of psychology.

(4) "Committee" means the disciplinary committee established by the board.

(5) "Department" means the department of licensing.

NEW SECTION. Sec. 76. There is added to chapter 18.83 RCW a new section to read as follows:

There is created the examining board of psychology which shall examine the qualifications of applicants for licensing. The board shall consist of seven psychologists and two public members, all appointed by the governor. The public members shall not be and have never been psychologists or in training to be psychologists; they may not have any household member who is a psychologist or in training to be a psychologist; they may not participate or ever have participated in a commercial or professional field related to psychology, nor have a household member who has so participated; and they may not have had within two years before appointment a substantial financial interest in a person regulated by the board. Each psychologist member of the board shall be a citizen of the United States who has actively practiced psychology in the state of Washington for at least three years immediately preceding appointment and who is licensed under this chapter. Each member of the board shall serve for a term of five years. The members of the first board appointed after the effective date of this act shall determine by lot psychologist members to serve for five, four, and three year terms to stagger the terms, with members of the board existing on the effective date of this act serving the shorter terms. Public members of the first board appointed after the effective date of this act shall choose one to serve for five years and one to serve for four years. Upon the death, resignation, or removal of a member, the governor shall appoint a successor to serve for the unexpired term. The board shall elect one of its members to serve as chairperson.

NEW SECTION. Sec. 77. There is added to chapter 18.83 RCW a new section to read as follows:

The board shall meet at least once each year and at such other times as the board deems appropriate to properly discharge its duties. All meetings



shall be held in Olympia, Washington, or such other places as may be designated by the director. Five members of the board shall constitute a quorum, except that oral examinations may be conducted with only three psychologist members.

Sec. 78. Section 5, chapter 305, Laws of 1955 as amended by section 5, chapter 70, Laws of 1965 and RCW 18.83.050 are each amended to read as follows:

~~((It shall be the duty of the board to:))~~

(1) The board shall adopt such rules as it deems necessary to carry out its functions.

(2) The board shall examine the qualifications of applicants for licensing under this chapter, to determine which applicants are eligible for licensing hereunder and shall forward to the director the names of applicants so eligible.

~~((2) Prepare, give and grade such examinations to applicants as are required by the terms of this chapter. The board shall determine the scope and length of such examinations, and what score shall be deemed a passing score. Such examination shall be oral and written. The board may designate one or more of its members to personally supervise the taking of the examinations by applicants.))~~

(3) The board shall administer examinations to qualified applicants on at least an annual basis. The board shall determine the subject matter and scope of the examinations and shall require both written and oral examinations of each applicant, except as provided in RCW 18.83.170. The board may allow applicants to take the written examination upon the granting of their doctoral degree before completion of their internship for supervised experience.

(4) The board shall keep a complete record of its own proceedings, of the questions given in examinations, of the names and qualifications of all applicants, and the names and addresses of all licensed psychologists. The examination paper of such applicant shall be kept on file for a period of at least one year after examination.

(5) The board shall, by rule, adopt a code of ethics for psychologists which is designed to protect the public interest.

(6) The board shall create a disciplinary committee within the board for the purposes of hearing, examining, and ruling on complaints and evidence of unethical conduct or practices brought by the public, other psychologists, organizations, corporations, public or private agencies, or officers, agencies, or instrumentalities of state, county, or local governments.

Sec. 79. Section 6, chapter 305, Laws of 1955 as last amended by section 72, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.060 are each amended to read as follows:

Each applicant for a license shall file with the director an application duly verified, in such form and setting forth such information as the board

shall prescribe. An application fee determined by the director as provided in RCW (~~43.24.085 as now or hereafter amended~~) 43.24.086 shall accompany each application.

Sec. 80. Section 7, chapter 305, Laws of 1955 as amended by section 7, chapter 70, Laws of 1965 and RCW 18.83.070 are each amended to read as follows:

An applicant for a license as "psychologist" must submit proof to the board that:

(1) ~~((He))~~ The applicant is of good moral character.

(2) ~~((He holds a doctoral degree from an accredited institution of higher learning with an adequate major in psychology as determined by the board and has had at least one year experience practicing psychology under qualified supervision after receiving such degree.))~~ The applicant holds a doctoral degree from a regionally accredited institution, obtained from an integrated program of graduate study in psychology as defined by rules of the board.

(3) ~~((He is professionally competent by passing an examination in psychology prescribed by the board and covering the basic subject matter of psychology and psychological skills and techniques: PROVIDED, That persons who have not previously failed an examination hereunder or been denied a certificate by the board and who are holding a doctoral or master's degree from an accredited institution of higher learning with an adequate major in psychology as determined by the board and who have practiced psychology for a period of five years or its equivalent in part time employment, at least three years of which shall have been in the state of Washington prior to the date of application and who submit to the board proof of good moral character shall be granted the title of "psychologist" and shall receive a license hereunder without taking any examination, if such persons apply for such license within one year after the effective date of this amendatory act of 1965))~~ The applicant has had no fewer than two years of supervised experience, at least one of which shall have been obtained subsequent to the granting of the doctoral degree. The board shall adopt rules defining the circumstances under which supervised experience shall qualify the candidate for licensure.

(4) The applicant has passed the written and oral examinations prescribed by the board.

Any person holding a valid license to practice psychology in the state of Washington on the effective date of this 1984 act shall be considered licensed under this chapter.

Sec. 81. Section 20, chapter 70, Laws of 1965 as amended by section 15, chapter 266, Laws of 1971 ex. sess. and RCW 18.83.072 are each amended to read as follows:

(1) Examination of applicants shall be held in Olympia, Washington, or at such other place as designated by the director, at least annually at such times as the board may determine.

(2) Any applicant shall have the right to discuss with the board his or her performance on the examination.

(3) Any applicant who fails to make a passing grade on the examination may be allowed to ~~((take the examination a second time))~~ retake the examination. Any applicant who fails the examination a second time must obtain special permission from the board to take the examination again.

(4) The reexamination fee shall be the same as the application fee set forth in RCW 18.83.060.

Sec. 82. Section 23, chapter 70, Laws of 1965 as amended by section 73, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.082 are each amended to read as follows:

~~(1) ((All "certified psychologists" who are certified under the provisions of chapter 18.83 RCW shall be promptly issued a license by the director. The fee for this license shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended:))~~

~~(2) The words "certification" and "licensing" shall be known as interchangeable terms in this chapter.~~

~~(3))~~ A valid receipt for an initial application for license hereunder, provided the applicant meets the requirements of ~~((subsections (1) and (2) of))~~ RCW 18.83.070 (1), (2), and (3), shall constitute a temporary permit to practice psychology until the board ~~((of examiners))~~ completes action on the application. The board must complete action within one year of the date such receipt is issued.

~~((4))~~ (2) A person, not licensed in this state, who wishes to perform practices under the provisions of this chapter for a period not to exceed ninety days within a calendar year, must petition the board for a temporary permit to perform such practices. If the person is licensed or certified in another state deemed by the board to have standards equivalent to this chapter, a permit may be issued. No fee shall be charged for such temporary permit.

Sec. 83. Section 9, chapter 305, Laws of 1955 as last amended by section 1, chapter 58, Laws of 1977 and RCW 18.83.090 are each amended to read as follows:

~~((Each licensed psychologist shall pay to the state treasurer, on or before the tenth day of January of each year, an annual license renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended:))~~ The board shall establish rules governing mandatory continuing education requirements which shall be met by any psychologist applying for a license renewal. Each licensed psychologist shall pay to the health professions account, created in RCW 43.24.072, annually, at such time as determined by the board, an annual license renewal fee determined

by the director under RCW 43.24.086. Upon receipt of the fee, the director shall issue a certificate of renewal in such form as the director shall determine.

Sec. 84. Section 13, chapter 305, Laws of 1955 as amended by section 12, chapter 70, Laws of 1965 and RCW 18.83.120 are each amended to read as follows:

Within the meaning of this chapter unethical practice of psychology shall include ~~((the following:~~

~~(1) Wilfully misleading a client or furnishing a client with information known to be erroneous:~~

~~(2) The offering of any psychological services entirely by mail, the use of untrained personnel or of mechanical devices alone in the interpretation of test results, the indiscriminate dissemination of psychological testing materials:~~

~~(3) The employment of psychological techniques for entertainment, or other purposes not consistent with the development of psychology as a science:~~

~~(4) Engaging in individual psychological diagnosis or treatment in the course of public lectures or demonstrations, newspaper or magazine articles, radio or television programs, or similar media:~~

~~(5) Representing himself as a psychologist under any name, except his own, which shall be that used in his license issued by the director:~~

~~(6) Conducting an office for the practice of psychology in his name or use his name in connection with any office for the practice of psychology, unless he is personally present therein functioning as a psychologist or personally overseeing the functions performed in any office during most of the time that office is being operated:~~

~~(7) Employing a solicitor or solicitors to obtain business:~~

~~(8) Advertising individual psychological diagnosis or treatment in newspapers, periodicals, or in bold face type or in any printed matter or by the use of any form of display sign or by means of hand bills, posters, circulars, stereopticon slide, motion pictures, television, or any printed publication or medium: PROVIDED, That he may be listed in any directory in a manner uniform as to type, size and color with others listed therein, may display a dignified sign at the entrance to his office or on the windows thereof, containing not more than his name, degree, the designation psychologist, and the type of psychological activity, and may use dignified business cards containing his name, title, degree, and the type of psychological activity, office and residence address and telephone numbers and his office hours:~~

~~(9) Obtaining any fee by fraud or misrepresentation:~~

~~(10) Wilfully betraying professional secrets:~~

~~(11) Adopting any means tending to deceive the public or to be habitually intemperate or grossly immoral or to commit any offense involving~~

~~moral turpitude, in which case the record of conviction thereof shall be conclusive evidence:~~

~~(12) Obtaining by fraud or deceit a license as psychologist:~~

~~(13) Advertising the rendition of individual psychological diagnosis or treatment at a stipulated price or any variation of such price or as being free:~~

~~(14) Violating the provisions of chapter 19.68 RCW:~~

~~(15) Being guilty of unprofessional conduct as defined in any other act relating to the practice of psychology:~~

~~(16) All advertising of any psychological practice which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety:~~

~~(17) Repeating acts of immorality, or repeating acts of gross misconduct in the practice of psychology)) any act or practice which violates the codes of ethics established by the board. In addition, the following conduct, acts, or conditions constitute the unethical practice of psychology for any licensee or applicant subject to this chapter:~~

(1) The commission of any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this subsection abrogates rights guaranteed under chapter 9.96A RCW.

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof.

(3) Advertising in a manner which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public health, safety, or welfare.

(4) Incompetency or negligence in the practice of psychology which creates an unreasonable risk of physical or mental harm or serious financial loss to the consumer.

(5) Practicing psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction.

(6) Violation of any state statute or administrative code specifically governing the practice of psychology.

(7) Failure to cooperate with the committee by:

- (a) Not furnishing any papers or documents requested by the committee;
- (b) Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the committee;
- (c) Not appearing before the committee at the time and place designated; or
- (d) Not properly responding to subpoenas issued by the committee.
- (8) Failure to comply with an order issued by the committee or an assurance of discontinuance entered into with the committee.
- (9) Aiding or abetting an unlicensed person to practice when a license is required.
- (10) Gross, wilful, or continued overcharging for professional services.
- (11) Wilful or repeated violations of rules established by any health officer of the state or a political subdivision thereof.
- (12) Practice beyond the scope of practice as defined by law.
- (13) Misrepresentations or fraud in any aspect of the conduct of the profession.
- (14) Failure to adequately supervise auxiliary staff to the extent that the consumer's safety is at risk.
- (15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health.
- (16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service.
- (17) Conviction of any gross misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or no contest is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW.
- (18) Physically abusing or having sexual contact with a patient or client.
- (19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the committee.
- (20) The wilful betrayal of a professional secret.
- (21) Violation of chapter 19.68 RCW.

Sec. 85. Section 12, chapter 305, Laws of 1955 as amended by section 13, chapter 70, Laws of 1965 and RCW 18.83.130 are each amended to read as follows:

The ~~((director))~~ board shall refuse to grant a license to any applicant and shall revoke or suspend ~~((any license upon proof of the following))~~ the

license of any psychologist, or place other restrictions on that psychologist's practice of psychology, for the following reasons:

- (1) ((Conviction of crime involving moral turpitude;
- (2) Habitual use of narcotics, or any other substance which impairs the intellect and judgment to such an extent as to incapacitate the applicant or license holder for the practice of psychology;
- (3) Habitual drunkenness;
- (4) Violation of the provisions of this chapter;
- (5) The unethical practice of psychology.)) Commission of any act involving moral turpitude, as defined by the board by rule, dishonesty, or corruption, which relates directly to a person's fitness to practice psychology, whether that act constitutes a crime or not; and if the act constitutes a crime, conviction thereof in criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction, the judgment and sentence shall be conclusive evidence at any ensuing disciplinary hearing of guilt of the psychologist of the crime described in the indictment or information and of the violation of the statute upon which it is based.
- (2) Failing to maintain the confidentiality of information under RCW 18.83.110.
- (3) Violations of the ethical code developed by the board under RCW 18.83.050 and 18.83.120.
- (4) Failing to inform prospective research subjects or their authorized representatives of the possible serious effects of participation in research; and failing to undertake reasonable efforts to remove possible harmful effects of participation.
- (5) Practicing in an area of psychology for which the person is clearly untrained or incompetent.
- (6) Being negligent in the practice of psychology.
- (7) Failing to exercise appropriate supervision over persons who practice under the supervision of a psychologist.
- (8) Using fraud or deceit in the procurement of the psychology license, or knowingly assisting another in the procurement of such a license through fraud or deceit.
- (9) Engaging in the practice of psychology while the person's ability to perform professional services is significantly impaired by alcohol, drugs, illness, or other dysfunctions.
- (10) Engaging in the practice of psychology when the person's psychology license has been suspended or revoked by competent authority in any other state, federal, or foreign jurisdiction when the reason for that suspension or revocation is a violation of this chapter or rules adopted by the board and its disciplinary committee.
- (11) Unprofessional conduct as defined in chapter 19.68 RCW.
- (12) Wilful violation of RCW 18.83.120 or section 79 of this 1984 act or wilful disregard of the subpoena or notice of the disciplinary committee.

(13) Failure to abide by the terms of corrective actions directed under RCW 18.83.150.

(14) Violation of any board rule fixing a standard of professional conduct.

NEW SECTION. Sec. 86. There is added to chapter 18.83 RCW a new section to read as follows:

The disciplinary committee shall meet at least once each year or upon the call of the chairperson at such time and place as the chairperson designates. A quorum for transaction of any business shall consist of five members, including at least one public member.

The members of the disciplinary committee shall be immune from suit in any action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the committee.

The committee shall have the following authority:

(1) To order investigation of all complaints or reports of unprofessional conduct as defined in this chapter and to hold hearings as provided in this chapter;

(2) To issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

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

(4) To compel attendance of witnesses at hearings;

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

(6) To take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice pending proceedings by the committee;

(7) To use the office of administrative hearings as authorized in chapter 34.12 RCW to conduct hearings; however, the disciplinirg authority shall make the final decision regarding disposition of the license;

(8) To use consultants or individual members of the board to assist in the direction of investigations and issuance of statements of charges; however, the member of the board shall not subsequently participate in the hearing of the case;

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

(10) To contract with licensees or other persons or organizations to provide services necessary for the monitoring and supervision of licensees who are placed on probation, whose professional activities are restricted, or who are for any authorized purpose subject to monitoring by the committee;

(11) To grant or deny license application, and in the event of a finding of unprofessional conduct by an applicant or license holder, to impose any



sanction against a license applicant or license holder provided by this chapter;

(12) To enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing. The assurance shall consist of a statement of the law in question and an agreement not to violate the stated provision. The applicant or license holder shall not be required to admit to any violation of the law, nor shall the assurance be construed as such an admission. Violation of an assurance under this subsection is grounds for disciplinary action;

(13) To maintain records of all activities, and to publish and distribute to all psychologists at least once each year abstracts of significant activities of the committee;

(14) To obtain the written consent of the complaining client or patient or their legal representative, or of any person who may be affected by the complaint, in order to obtain information which otherwise might be confidential or privileged;

(15) To report, when appropriate, statements of complaints and disposition of cases processed by the committee to:

(a) The person or agency initiating the action;

(b) Appropriate national and state organizations which represent the profession of psychology, including counterpart licensing boards in other states; and

(c) The public.

This subsection does not require the reporting of any information which is exempt from public disclosure pursuant to chapter 42.17 RCW or is otherwise privileged or confidential.

The committee has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.04 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions.

NEW SECTION, Sec. 87. There is added to chapter 18.83 RCW a new section to read as follows:

The director has the following authority:

(1) To hire such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter;

(2) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation, hearing, or proceeding, and to reimburse the individuals for services provided.

NEW SECTION, Sec. 88. There is added to chapter 18.83 RCW a new section to read as follows:

The disciplinary committee may take any of the following actions as a result of investigation of a complaint and the ensuing hearing:

(1) Revocation of the license.

- (2) Suspension of the license for a fixed term.
- (3) Restriction or limitation upon the licensee's practice.
- (4) Establishment of a requirement that a licensee complete a specified program of continuing education or reeducation.
- (5) Monitoring of the licensee's practice by a licensed psychologist or other person or organization appointed by the committee.
- (6) Censure or reprimand.
- (7) Compliance with conditions of probation for a designated period of time.
- (8) Any combination of the foregoing, which may be partly or totally stayed.
- (9) Dismissal of the complaint and exoneration of the licensee.
- (10) Payment of a fine for each violation of this chapter, not to exceed one thousand dollars per violation. Funds received shall be placed in the health professions account.
- (11) Denial of the license request.
- (12) Corrective action by the license holder.
- (13) Refund of fees charged to the consumer by the license holder.

NEW SECTION. Sec. 89. There is added to chapter 18.83 RCW a new section to read as follows:

The committee shall report to appropriate national and state organizations which represent the profession of psychology any action taken pursuant to an investigation or hearing that finds a licensee has committed unprofessional or unethical conduct.

In the event of an order for revocation or suspension of a psychology license, or for restriction or limitation of a licensee's practice, the committee shall report such action to the public. This public notification shall be suspended for thirty days from date of filing of any appeal.

If the committee finds that a complaint against a licensee is not substantiated, or if there is no finding of unprofessional or unethical conduct, resulting in dismissal of the complaint and exoneration of the licensee, the committee shall attempt to relieve the licensee of any possible odium that may attach by reason of the complaint by such public exoneration as is necessary.

NEW SECTION. Sec. 90. There is added to chapter 18.83 RCW a new section to read as follows:

Any portion or all of the costs associated with providing a psychologist or other person or organization for monitoring the conditions of probation or of the licensee's compliance with the terms of the committee's decision and order may be assessed by the committee against the licensee, in which event payment of such costs and expenses shall become a legal obligation of the licensee to the department of licensing.

NEW SECTION. Sec. 91. There is added to chapter 18.83 RCW a new section to read as follows:

Orders of the board may be appealed as provided in chapter 34.04 RCW. An order, if appealed, shall not be stayed pending the appeal unless the committee or the court to which the appeal is taken enters an order staying the order of the committee, which stay shall provide terms necessary to protect the public.

Sec. 92. Section 17, chapter 305, Laws of 1955 as last amended by section 76, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.83.170 are each amended to read as follows:

Upon application accompanied by a fee determined by the director as provided in RCW (~~(43.24.085 as now or hereafter amended)~~) 43.24.086, the board may (~~(recommend and the director shall be empowered to)~~) grant a license, without written (~~(or oral)~~) examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that (~~(he)~~) the applicant:

(1) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

(2) Is licensed or certified to practice psychology in another state or country in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

(3) Is a (~~(diplomat)~~) diplomate in good standing of the American Board of Examiners in Professional Psychology.

NEW SECTION. Sec. 93. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 305, Laws of 1955, section 3, chapter 70, Laws of 1965, section 27, chapter 292, Laws of 1971 ex. sess. and RCW 18.83.030;

(2) Section 4, chapter 305, Laws of 1955, section 4, chapter 70, Laws of 1965 and RCW 18.83.040;

(3) Section 14, chapter 305, Laws of 1955, section 14, chapter 70, Laws of 1965 and RCW 18.83.140;

(4) Section 15, chapter 305, Laws of 1955, section 15, chapter 70, Laws of 1965 and RCW 18.83.150; and

(5) Section 16, chapter 305, Laws of 1955, section 16, chapter 70, Laws of 1965, section 61, chapter 81, Laws of 1971 and RCW 18.83.160.

NEW SECTION. Sec. 94. There is added to chapter 43.131 RCW a new section to read as follows:

The powers and duties of the board of psychologists examiners shall be terminated on June 30, 1986.

NEW SECTION. Sec. 95. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 3, 1984.

Passed the Senate March 2, 1984.

Approved by the Governor March 29, 1984, with the exception of sections 64, 65(3), 66, 67, 70(3) and (4), which were vetoed.

Filed in Office of Secretary of State March 29, 1984.

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

I am returning herewith, without my approval as to certain provisions, Substitute House Bill No. 1178, entitled:

"AN ACT Relating to the regulation of health and health-related professions and businesses."

Section 64 adds very detailed and inappropriate language to the statute regulating nursing home administrators.

Sections 64 and 65 (3) would exempt from all regulation the administrators of nursing homes operated by churches teaching healing by faith alone. I believe it is important to recognize that the regulation of nursing homes and their administrators deals with far more than medical treatment. Therefore, the current exemptions from medically-related regulations are more appropriate than blanket deregulation.

Sections 66 and 67 would raise the educational requirement for licensure of nursing home administrators from an associate degree to a bachelor's degree. This kind of educational requirement, unrelated to the practice of the occupation, is inappropriate because it tends to increase consumer costs and decrease job opportunities without promising any improvement in service.

Sections 70(3) and (4) would reduce the state's ability to discipline licensed nursing home administrators by removing the ability to discipline for knowing violations of the statute. Knowing violation should be retained as a basis of discipline.

With the exception of these provisions, Substitute House Bill No. 1178 is approved.

## CHAPTER 280

[Substitute House Bill No. 1163]

### CREDIT TRANSACTIONS

AN ACT Relating to credit transactions; amending section 1, chapter 236, Laws of 1963 as last amended by section 7, chapter 158, Laws of 1983 and RCW 63.14.010; amending section 9, chapter 236, Laws of 1963 and RCW 63.14.090; amending section 12, chapter 236, Laws of 1963 as last amended by section 4, chapter 77, Laws of 1981 and RCW 63.14.120; amending section 13, chapter 236, Laws of 1963 as last amended by section 5, chapter 77, Laws of 1981 and RCW 63.14.130; amending section 14, chapter 236, Laws of 1963 and RCW 63.14.140; amending section 15, chapter 236, Laws of 1963 as amended by section 9, chapter 234, Laws of 1967 and RCW 63.14.150; amending section 9, chapter 77, Laws of 1981 and RCW 63.14.151; amending section 16, chapter 236, Laws of 1963 and RCW 63.14.160; amending section 10, chapter 77, Laws of 1981 and RCW 63.14.165; amending section 18, chapter 236, Laws of 1963 as amended by section 10, chapter 234, Laws of 1967 and RCW 63.14.180; and adding new sections to chapter 236, Laws of 1963 and to chapter 63.14 RCW.