

Sec. 13. Section 22, chapter 7, Laws of 1983 as last amended by section 2, chapter 183, Laws of 1984 and RCW 88.02.110 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, a violation of this chapter, RCW 43.51.400, and the rules adopted by the department and the state parks and recreation commission pursuant to these statutes is a misdemeanor punishable only by a fine not to exceed one hundred dollars per vessel for the first violation. Subsequent violations in the same year are subject to the following fines:

(a) For the second violation, a fine of two hundred dollars per vessel;

(b) For the third and successive violations, a fine of four hundred dollars per vessel.

(2) After subtraction of court costs and administrative collection fees, moneys collected under this section shall be credited to the current expense fund of the arresting jurisdiction.

(3) All law enforcement officers shall have the authority to enforce this chapter, RCW 43.51.400, and the rules adopted by the department and the state parks and recreation commission pursuant to these statutes within their respective jurisdictions: **PROVIDED**, That a city, town, or county may contract with a fire protection district for such enforcement and fire protection districts are authorized to engage in such activities.

NEW SECTION. Sec. 14. There is appropriated to the department of licensing from the general fund for the biennium ending June 30, 1989, the sum of three hundred fourteen thousand dollars, or so much as may be necessary, to carry out the purposes of this act.

NEW SECTION. Sec. 15. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987.

Passed the Senate April 10, 1987.

Passed the House April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

CHAPTER 150

[Substitute House Bill No. 563]

PROFESSIONAL LICENSING—UNIFORM DISCIPLINARY ACT REVISIONS— STATE HEALTH COORDINATING COUNCIL TO MAKE RECOMMENDATIONS CONCERNING PROPOSALS FOR A MANDATED HEALTH INSURANCE COVERAGE

AN ACT Relating to professional licensing; amending RCW 18.130.050, 18.130.060, 18.130.170, 18.130.190, 18.130.185, 18.06.110, 18.22.018, 18.25.019, 18.29.076, 18.32.039, 18.34.136, 18.35.110, 18.35.161, 18.35.190, 18.35.220, 18.36.136, 18.39.178, 18.39.020,

18.50.126, 18.52.100, 18.53.101, 18.54.076, 18.55.066, 18.57.011, 18.59.141, 18.71.019, 18.74.029, 18.74.090, 18.78.054, 18.83.135, 18.83.155, 18.83.180, 18.88.086, 18.92.046, 18.108.076, and 48.42.070; reenacting and amending RCW 18.130.040; 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 a new section to chapter 18.29 RCW; adding a new section 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 18.52 RCW; adding a new section to chapter 18.53 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 18.59 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.78 RCW; adding new sections to chapter 18.83 RCW; adding a new section to chapter 18.92 RCW; adding new sections to chapter 18.130 RCW; creating a new section; repealing RCW 18.35.210, 18.52.055, 18.52.065, 18.52.090, 18.52.120, 18.52.150, 18.52.155, 18.83.120, 18.83.130, 18.83.145, 18.83.161, and 18.83.165; and prescribing penalties.

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

PART I UNIFORM DISCIPLINARY ACT

Sec. 1. Section 4, chapter 279, Laws of 1984 as amended by section 29, chapter 326, Laws of 1985 and by section 3, chapter 259, Laws of 1986 and RCW 18.130.040 are each reenacted and amended to read as follows:

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

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

(vii) Acupuncturists certified under chapter 18.106 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;

~~((v))~~ (vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

~~((vi))~~ (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;

~~((vii))~~ (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;

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

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

~~((x))~~ (xii) The board of practical nursing as established in chapter 18.78 RCW;

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

~~((xi))~~ (xiv) The board of nursing as established in chapter 18.88 RCW; and

~~((xii))~~ (xv) 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 also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

Sec. 2. Section 5, chapter 279, Laws of 1984 and RCW 18.130.050 are each amended to read as follows:

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 or report 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))~~ direct 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;

(15) To designate individuals authorized to sign subpoenas and statements of charges.

Sec. 3. Section 6, chapter 279, Laws of 1984 and RCW 18.130.060 are each amended to read as follows:

In addition to the authority specified in RCW 18.130.050, the director has the following additional authority:

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

(2) Upon the request of a board, to appoint not more than three 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 appointed by the board chairperson. 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);

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

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

Where an order for payment of a fine is made as a result of a hearing under RCW 18.130.100 and timely payment is not made as directed in the final order, the disciplining authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement shall be in addition to any other rights the disciplining authority may have as to any licensee ordered to pay a fine but shall not be construed to limit a licensee's ability to seek judicial review under RCW 18.130.140.

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

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

A person or business that violates an injunction issued under this chapter shall pay a civil penalty, as determined by the court, of not more than twenty-five thousand dollars, which shall be placed in the health professions account. For the purpose of this section, the superior court issuing

any injunction shall retain jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

Sec. 6. Section 17, chapter 279, Laws of 1984 as amended by section 9, chapter 259, Laws of 1986 and RCW 18.130.170 are each amended to read as follows:

(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 RCW 18.130.160 as is deemed necessary to protect the public.

(2) In ~~((enforcing this section))~~ investigating or adjudicating a complaint or report that a license holder or applicant may be unable to practice with reasonable skill or safety by reason of any mental or physical condition, the disciplining authority may require a license holder or applicant to submit to a mental or physical examination by one or more licensed or certified health professionals designated by the disciplining authority. 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 physical or mental examination reports from licensed or certified health professionals 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 health professional's testimony or examination reports by the disciplining authority on the ground that the testimony or reports constitute privileged communications.

Sec. 7. Section 19, chapter 279, Laws of 1984 as amended by section 11, chapter 259, Laws of 1986 and RCW 18.130.190 are each amended to read as follows:

(1) The director shall investigate complaints concerning practice by ~~unlicensed ((individuals))~~ persons of a profession ~~((requiring a license))~~ or business for which a license is required by the chapters specified in RCW 18.130.040. 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))~~ under RCW 18.130.050. 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 or operating a business without a license from criminal prosecution therefor, but the remedy of a cease and desist order shall be in addition to any criminal liability. The cease and desist order is conclusive proof of unlicensed practice and may be enforced by civil contempt.

(2) The attorney general, a county prosecuting attorney, the director, a board, or any ~~((individual))~~ person may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin any ~~((individual))~~ person practicing a ~~((licensed))~~ profession or business for which a license is required by the chapters specified in RCW 18.130.040 without a license from engaging in such practice or operating such business until the required license is secured. However, the injunction shall not relieve the person so practicing or operating a business without a license from criminal prosecution therefor, but the remedy by injunction shall be in addition to any criminal liability.

(3) Unlicensed practice of a profession ~~((under the jurisdiction of a disciplining authority))~~ or operating a business for which a license is required by the chapters specified in RCW 18.130.040, unless otherwise exempted by law, constitutes a gross misdemeanor. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be remitted to the health professions account.

Sec. 8. Section 15, chapter 259, Laws of 1986 and RCW 18.130.185 are each amended to read as follows:

If ~~((an individual))~~ a person or business regulated by this chapter violates RCW 18.130.170 or 18.130.180, the attorney general, any prosecuting attorney, the director, the board, or any other person may maintain an action in the name of the state of Washington to enjoin the person from committing the violations. The injunction shall not relieve the offender from

criminal prosecution, but the remedy by injunction shall be in addition to the liability of the offender to criminal prosecution and disciplinary action.

PART II ACUPUNCTURE

Sec. 9. Section 11, chapter 326, Laws of 1985 and RCW 18.06.110 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this chapter. The director shall be the disciplining authority under this chapter.

PART III PODIATRY

Sec. 10. Section 17, chapter 259, Laws of 1986 and RCW 18.22.018 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 11. A new section is added to chapter 18.22 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice podiatry in this state unless the person first has obtained a license therefor.

PART IV CHIROPRACTIC

Sec. 12. Section 21, chapter 259, Laws of 1986 and RCW 18.25.019 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice and the issuance and denial of licenses under this chapter.

NEW SECTION. Sec. 13. A new section is added to chapter 18.26 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs the discipline of licensees under this chapter.

NEW SECTION. Sec. 14. A new section is added to chapter 18.25 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice chiropractic in this state unless the person has obtained a license as provided in this chapter.

PART V DENTAL HYGIENISTS

Sec. 15. Section 31, chapter 259, Laws of 1986 and RCW 18.29.076 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 16. A new section is added to chapter 18.29 RCW to read as follows:

No person may practice as a dental hygienist in this state without having a license as such and, after the first year, an unexpired license renewal certificate.

PART VI DENTISTRY

Sec. 17. Section 34, chapter 259, Laws of 1986 and RCW 18.32.039 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 18. A new section is added to chapter 18.32 RCW to read as follows:

No person, unless previously licensed to practice dentistry in this state, shall begin the practice of dentistry without first applying to, and obtaining a license.

PART VII DISPENSING OPTICIANS

Sec. 19. Section 45, chapter 259, Laws of 1986 and RCW 18.34.136 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 20. A new section is added to chapter 18.34 RCW to read as follows:

No person may practice or represent himself or herself as a dispensing optician without first having a valid license to do so.

PART VIII HEARING AIDS

NEW SECTION. Sec. 21. A new section is added to chapter 18.35 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 22. Section 11, chapter 106, Laws of 1973 1st ex. sess. as amended by section 9, chapter 39, Laws of 1983 and RCW 18.35.110 are each amended to read as follows:

In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed under this chapter may be subject to disciplinary action by the council for any of the following causes:

~~(1) ((The licensee, in the application for the license, or in any written or oral communication to the department concerning the issuance or retention of the license, has made any material misstatement of fact, or has omitted to disclose any material fact which makes that which is stated misleading;~~

~~(2)) For unethical conduct((, or for gross incompetence)) in dealing in hearing aids. Unethical conduct shall include, but not be limited to:~~

~~(a) Using or causing or promoting the use of, in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is false, misleading or deceptive;~~

~~(b) ((Employing directly or indirectly any suspended or unlicensed person to perform any work covered by this chapter;~~

~~(c)) Failing or refusing to honor or to perform as represented any representation, promise, agreement, or warranty in connection with the promotion, sale, dispensing, or fitting of the hearing aid;~~

~~((d)) (c) Advertising a particular model, type, or kind of hearing aid for sale which purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing and where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised;~~

~~((e)) (d) Falsifying hearing test or evaluation results;~~

~~((f)) (e) (i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user prior to fitting and dispensing a hearing aid to any such prospective hearing aid user, failing to advise that prospective hearing aid user in writing that the user should first consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to any duly licensed physician:~~

~~(A) Visible congenital or traumatic deformity of the ear, including perforation of the eardrum;~~

~~(B) History of, or active drainage from the ear within the previous ninety days;~~

~~(C) History of sudden or rapidly progressive hearing loss within the previous ninety days;~~

~~(D) Acute or chronic dizziness;~~

~~(E) Any unilateral hearing loss;~~

~~(F) Significant air-bone gap when generally acceptable standards have been established as defined by the food and drug administration;~~

(G) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal;

(H) Pain or discomfort in the ear; or

(I) Any other conditions that the department may by rule establish. It is a violation of this subsection for any licensee or that licensee's employees and putative agents upon making such required referral for medical opinion to in any manner whatsoever disparage or discourage a prospective hearing aid user from seeking such medical opinion prior to the fitting and dispensing of a hearing aid. No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within six months of the date of purchase. The licensee or the licensee's employees or putative agents shall obtain a signed statement from the hearing aid user documenting the waiver of medical clearance and the waiver shall inform the prospective user that signing the waiver is not in the user's best health interest: PROVIDED, That the licensee shall maintain a copy of either the physician's statement showing that the prospective hearing aid user has had a medical evaluation or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing aid. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited under the laws of this state;

(ii) Fitting and dispensing a hearing aid to any person under eighteen years of age who has not been examined and cleared for hearing aid use within the previous six months by a physician specializing in otolaryngology except in the case of replacement instruments or except in the case of the parents or guardian of such person refusing, for good cause, to seek medical opinion: PROVIDED, That should the parents or guardian of such person refuse, for good cause, to seek medical opinion, the licensee shall obtain from such parents or guardian a certificate to that effect in a form as prescribed by the department;

(iii) Fitting and dispensing a hearing aid to any person under eighteen years of age who has not been examined by an audiologist who holds at least a master's degree in audiology for recommendations during the previous six months, without first advising such person or his or her parents or guardian in writing that he or she should first consult an audiologist who holds at least a master's degree in audiology, except in cases of hearing aids replaced within six months of their purchase;

~~((g))~~ (f) Representing that the services or advice of a person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathy and surgery under chapter 18.57 RCW or of a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the word "doctor,"

"clinic," or other like words, abbreviations, or symbols which tend to conote a medical or osteopathic profession when such use is not accurate;

~~((f))~~ (g) Permitting another to use his or her license;

~~((f))~~ (h) Stating or implying that the use of any hearing aid will restore normal hearing, preserve hearing, prevent or retard progression of a hearing impairment, or any other false, misleading, or medically or audilogically unsupportable claim regarding the efficiency of a hearing aid;

~~((f))~~ (i) Representing or implying that a hearing aid is or will be "custom-made," "made to order," "prescription made," or in any other sense specially fabricated for an individual when that is not the case; or

~~((k))~~ (j) Directly or indirectly offering, giving, permitting, or causing to be given, money or anything of value to any person who advised another in a professional capacity as an inducement to influence that person, or to have that person influence others to purchase or contract to purchase any product sold or offered for sale by the licensee, or to influence any person to refrain from dealing in the products of competitors.

~~((3))~~ Engaging in the fitting or dispensing of hearing aids while suffering from a contagious or infectious disease involving risk to the public.

~~(4)~~ Dealing in hearing aids under a false, misleading, or deceptive name:

~~(5)~~ Violating any of the provisions of this chapter or the rules adopted by this chapter:

~~(6)~~ Failure to properly and reasonably accept responsibility for the actions of his or her employees:

~~(7))~~ (2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020 as now or hereafter amended.

~~((8))~~ (3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW.

Sec. 23. Section 13, chapter 39, Laws of 1983 and RCW 18.35.161 are each amended to read as follows:

The council shall have the following powers and duties:

(1) To establish by rule such minimum standards and procedures in the fitting and dispensing of hearing aids as deemed appropriate and in the public interest;

(2) To develop guidelines on the training and supervision of trainees;

(3) To adopt any other rules or regulations necessary to implement this chapter and which are not inconsistent with it;

(4) To develop, approve, and administer all licensing examinations required by this chapter; and

(5) To ~~(conduct all disciplinary proceedings pursuant to this chapter. All hearings conducted and all rules adopted shall be in accordance with chapter 34.04 RCW. If, following a hearing, the council finds that an applicant or licensee has violated any section of this chapter or any of the~~

~~rules promulgated under it, the council may enter an order imposing one or more of the following penalties:~~

- ~~(a) Denial of an initial license or renewal;~~
- ~~(b) Revocation or suspension of license;~~
- ~~(c) A fine not to exceed one thousand dollars for each separate offense;~~
- ~~(d) Issuance of a reprimand or letter of censure;~~
- ~~(e) Placement of the licensee on probation for a period of time;~~
- ~~(f) Restriction of the licensee's authorized scope of practice; or~~
- ~~(g) Requiring the))~~

require a licensee to make restitution to any individual injured by ((the)) a violation of this chapter or chapter 18.130 RCW, the uniform disciplinary act. The authority to require restitution does not limit the council's authority to take other action deemed appropriate and provided for in this chapter or chapter 18.130 RCW.

Sec. 24. Section 19, chapter 106, Laws of 1973 1st ex. sess. as amended by section 14, chapter 39, Laws of 1983 and RCW 18.35.190 are each amended to read as follows:

(1) In addition to remedies otherwise provided by law, in any action brought by or on behalf of a person required to be licensed hereunder, or by any assignee or transferee thereof, arising out of the business of fitting and dispensing of hearing aids, it shall be necessary to allege and prove that the licensee at the time of the transaction held a valid license as required by this chapter, and that such license has not been suspended or revoked pursuant to RCW 18.35.110 or 18.35.120.

~~(2) ((Any person who shall engage in the fitting and dispensing of hearing aids without having obtained a license or who shall wilfully and intentionally violate any of the provisions of this chapter shall be guilty of a gross misdemeanor punishable by a fine not to exceed five thousand dollars per violation or by imprisonment in the county jail for a period not to exceed six months, or both.~~

~~(3))~~ In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing aid shall have the right to rescind the transaction for other than the seller's breach if:

(a) The purchaser, for reasonable cause, returns the hearing aid or holds it at the seller's disposal: PROVIDED, That the hearing aid is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the council but shall not include a mere change of mind on the part of the purchaser or a change of mind related to cosmetic concerns of the purchaser in wearing a hearing aid; and

(b) By sending notice of such cancellation to the licensee at the licensee's place of business by certified mail, return receipt requested, which shall be posted not later than thirty days following the date of delivery: PROVIDED, That in the event of cancellation pursuant to this subsection or as otherwise provided by law, the licensee shall, without request, refund

to the purchaser postmarked within ten days after such cancellation all deposits, including any down payment less fifteen percent of the total purchase price or one hundred dollars per hearing aid, whichever is less, and shall return all goods traded in to the licensee on account or in contemplation of the sale less any reasonable costs actually incurred in making ready for sale, goods so traded in: AND PROVIDED FURTHER, That the buyer shall incur no additional liability for such cancellation.

(c) Where a purchaser has taken the steps described in subsections (a) and (b) above to cancel the purchase, and the purchaser subsequently agrees with the seller to extend the trial or rescission period, the purchaser remains entitled to receive the refund described in ~~((RCW 18.35.190(3)(b)))~~ subsection (2)(b) of this section upon demand made within sixty days of the original date of delivery or such other time as agreed to in writing by both parties. Written notice of the last date for demanding a refund shall be provided to the purchaser at the time the trial or rescission period is extended.

Sec. 25. Section 17, chapter 39, Laws of 1983 and RCW 18.35.220 are each amended to read as follows:

(1) If the council determines following notice and hearing, or following notice if no hearing was timely requested, that a person has:

- (a) Violated any provisions of this chapter or chapter 18.130 RCW; or
- (b) Violated any lawful order, or rule of the council

an order may be issued by the council requiring the person to cease and desist from the unlawful practice. The council shall then take affirmative action as is necessary to carry out the purposes of this chapter.

(2) If the council makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order, a temporary cease and desist order may be issued. Prior to issuing a temporary cease and desist order, the council, whenever possible, shall give notice by telephone or otherwise of the proposal to issue a temporary cease and desist order to the person to whom the order would be directed. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether the order becomes permanent.

(3) The department, with or without prior administrative proceedings, may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, or rule or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted and a receiver or conservator may be appointed. The department shall not be required to post a bond in any court proceedings.

NEW SECTION. Sec. 26. Section 15, chapter 39, Laws of 1983 and RCW 18.35.210 are each repealed.

PART IX
DRUGLESS HEALING

Sec. 27. Section 49, chapter 259, Laws of 1986 and RCW 18.36.136 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 28. A new section is added to chapter 18.36 RCW to read as follows:

No person may practice or represent himself or herself as a drugless therapist without first having a valid license to do so.

PART X
EMBALMERS AND FUNERAL DIRECTORS

Sec. 29. Section 59, chapter 259, Laws of 1986 and RCW 18.39.178 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 30. Section 2, chapter 108, Laws of 1937 as amended by section 2, chapter 43, Laws of 1981 and RCW 18.39.020 are each amended to read as follows:

It is (~~unlawful~~) a violation of RCW 18.130.190 for any person to act or hold himself out as a funeral director or embalmer or discharge any of the duties of a funeral director or embalmer as defined in this chapter unless the person has a valid license under this chapter. It is unlawful for any person to open up, maintain or operate a funeral establishment without a valid establishment license and without having at all times at least one funeral director to supervise and direct the business conducted therefrom.

PART XI
MIDWIFERY

Sec. 31. Section 75, chapter 259, Laws of 1986 and RCW 18.50.126 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

PART XII
NURSING HOME ADMINISTRATORS

NEW SECTION. Sec. 32. A new section is added to chapter 18.52 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 33. Section 10, chapter 57, Laws of 1970 ex. sess. as amended by section 4, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.100 are each amended to read as follows:

The board with the assistance of the director for administrative matters shall have the duty and responsibility within the limits provided in this chapter:

(1) To develop standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall include criteria to evaluate the practical experience, education, and training of applicants for licenses to determine that applicants have the equivalent of two years of experience in the operation of a nursing home. The standards and criteria shall be designed to insure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators as provided in this chapter.

(2) To develop appropriate techniques, including examinations and investigations to the extent necessary to determine whether an individual meets such standards for licensing.

(3) To develop, administer, and supervise an administrator-in-training program for applicants for licenses who are otherwise qualified but do not have the equivalent of two years experience in the operation of a nursing home at the time of application. Such program shall provide for supervision of each administrator-in-training by licensed nursing home administrators as preceptors. The board shall have the authority to do all acts necessary for the implementation of such a program, including, but not limited to, conducting education and training programs, establishing standards of qualification for preceptors, establishing criteria for creating and evaluating individual programs, and monitoring such programs to assure compliance with rules and regulations adopted by the board.

(4) To ~~((order the director to))~~ issue licenses to individuals determined by the board, after the application of such techniques, to meet such standards and to order the director to deny licenses to individuals who do not meet such standards or who are in violation of ~~((the provisions of RCW 18.52.120))~~ this chapter or chapter 18.130 RCW.

(5) ~~((To assure that the goals set forth in RCW 18.52.010 are effected the board shall have the authority after any notice and hearing which may be required by law, to order a reprimand of any licensee, or the suspension, refusal to reregister, or revocation of any license. The board may defer any such order or impose conditions thereon to permit continued licensed status when such action is reasonable considering the circumstances of the case,~~

~~the protection of the health and safety of patients, and fairness to the administrator.~~

~~(6) To investigate, and take appropriate action with respect to, any charge or complaint filed with the board or director to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of the standards for licensing.~~

(7)) To conduct a continuing study and investigation of the licensing of administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of new administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who are to be licensed.

((8)) (6) To encourage qualified educational institutions and other qualified organizations to establish, provide, and conduct and continue such training and instruction courses and programs as will enable all otherwise qualified individuals to attain the qualifications necessary to meet the standards for licensing nursing home administrators.

((9)) (7) To establish and carry out procedures, if required, designed to insure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements and standards for licensing set forth in this chapter.

((10)) (8) To establish appropriate procedures for the issuance in unusual circumstances and without examination of temporary license permits as nursing home administrators. Such permits may be issued and renewed by the director pursuant to rules and regulations which shall be established by the board. Such permits and renewals shall be subject to confirmation or rescission by order of the board upon review at the next board meeting. Any such permit or renewal thereof shall in all events expire six months from the date issued. ~~((No more than three consecutive permits shall be issued to any one person.))~~ Persons receiving such permits need not have passed the required examination but shall meet the other requirements of this chapter, except RCW 18.52.070(2). After hearing before the board and upon order of the board the ~~((director))~~ board may ~~((revoke or suspend any such permit))~~ take appropriate disciplinary action for the reasons provided in this chapter ~~((for suspension or revocation of administrator licenses))~~ or chapter 18.130 RCW.

((11)) (9) To advise the relevant state agencies regarding receipt and administration of such federal funds as are made available to carry out the educational purposes of this chapter.

((12)) (10) To advise the director regarding the application forms used by the director under this chapter.

~~((13) To direct the granting of provisional licenses as provided in this chapter.~~

(14)) (11) To issue rules and regulations which are necessary to carry out the functions of the board specifically assigned to it by this chapter.

NEW SECTION. Sec. 34. The following acts or parts of acts are each repealed:

- (1) Section 72, chapter 279, Laws of 1984 and RCW 18.52.055;
- (2) Section 37, chapter 279, Laws of 1984 and RCW 18.52.065;
- (3) Section 9, chapter 57, Laws of 1970 ex. sess., section 3, chapter 243, Laws of 1977 ex. sess., section 68, chapter 279, Laws of 1984 and RCW 18.52.090;
- (4) Section 12, chapter 57, Laws of 1970 ex. sess., section 2, chapter 97, Laws of 1975 1st ex. sess., section 5, chapter 243, Laws of 1977 ex. sess., section 70, chapter 279, Laws of 1984 and RCW 18.52.120;
- (5) Section 15, chapter 57, Laws of 1970 ex. sess., section 6, chapter 243, Laws of 1977 ex. sess., section 20, chapter 67, Laws of 1981 and RCW 18.52.150; and
- (6) Section 7, chapter 243, Laws of 1977 ex. sess. and RCW 18.52-.155.

NEW SECTION. Sec. 35. The repeal of RCW 18.52.120 by this act shall not be construed as affecting any rights and duties which matured, penalties which were incurred, and proceedings which were begun before the effective date of this act.

PART XIII OPTOMETRY

Sec. 36. Section 78, chapter 259, Laws of 1986 and RCW 18.53.101 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter and chapter 18.54 RCW.

Sec. 37. Section 79, chapter 259, Laws of 1986 and RCW 18.54.076 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter and chapter 18.53 RCW.

NEW SECTION. Sec. 38. A new section is added to chapter 18.53 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice optometry in this state without first obtaining a license from the director of licensing.

PART XIV OCULARISTS

Sec. 39. Section 89, chapter 259, Laws of 1986 and RCW 18.55.066 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 40. A new section is added to chapter 18.55 RCW to read as follows:

No person may practice or represent himself or herself as an oculoarist without first having a valid license to do so.

PART XV OSTEOPATHY

Sec. 41. Section 92, chapter 259, Laws of 1986 and RCW 18.57.011 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 42. A new section is added to chapter 18.57 RCW to read as follows:

No person may practice or represent himself or herself as an osteopathic physician and surgeon without first having a valid license to do so.

PART XVI OCCUPATIONAL THERAPISTS

Sec. 43. Section 100, chapter 259, Laws of 1986 and RCW 18.59.141 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 44. A new section is added to chapter 18.59 RCW to read as follows:

No person may practice or represent himself or herself as an occupational therapist without first having a valid license to do so.

PART XVII PHYSICIANS AND PHYSICIANS' ASSISTANTS

Sec. 45. Section 105, chapter 259, Laws of 1986 and RCW 18.71.019 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice and the issuance and denial of licenses under this chapter.

NEW SECTION. Sec. 46. A new section is added to chapter 18.71 RCW to read as follows:

No person may practice or represent himself or herself as practicing medicine without first having a valid license to do so.

PART XVIII
PHYSICAL THERAPY

Sec. 47. Section 123, chapter 259, Laws of 1986 and RCW 18.74.029 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

Sec. 48. Section 9, chapter 239, Laws of 1949 as last amended by section 125, chapter 259, Laws of 1986 and RCW 18.74.090 are each amended to read as follows:

A person who is not licensed with the director of licensing as a physical therapist under the requirements of this chapter shall not represent himself as being so licensed and shall not use in connection with his name the words or letters "P.T.", "R.P.T.", "L.P.T.", "physical therapy", "physiotherapy", "physical therapist" or "physiotherapist", or any other letters, words, signs, numbers, or insignia indicating or implying that he is a physical therapist. No person may practice physical therapy without first having a valid license. Nothing in this chapter prohibits any person licensed in this state under any other act from engaging in the practice for which he or she is licensed. It shall be the duty of the prosecuting attorney of each county to prosecute all cases involving a violation of this chapter arising within his county. The attorney general may assist in such prosecution and shall appear at all hearings when requested to do so by the board.

PART XIX
PRACTICAL NURSES

Sec. 49. Section 128, chapter 259, Laws of 1986 and RCW 18.78.054 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 50. A new section is added to chapter 18.78 RCW to read as follows:

No person may practice or represent himself or herself as a licensed practical nurse without first having a valid license to do so.

PART XX
PSYCHOLOGY

NEW SECTION. Sec. 51. A new section is added to chapter 18.83 RCW to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter, except that the term "unlicensed practice" shall be defined by RCW 18.83.180 rather than RCW 18.130.020.

NEW SECTION. Sec. 52. A new section is added to chapter 18.83 RCW to read as follows:

In addition to those acts defined in chapter 18.130 RCW, the board may take disciplinary action under RCW 18.130.160 for the following reasons:

(1) Failing to maintain the confidentiality of information under RCW 18.83.110;

(2) Violating the ethical code developed by the board under RCW 18.83.050;

(3) 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;

(4) Practicing in an area of psychology for which the person is clearly untrained or incompetent;

(5) Failing to exercise appropriate supervision over persons who practice under the supervision of a psychologist;

(6) 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;

(7) Failing to maintain professional liability insurance when required by the board;

(8) Violating any state statute or administrative rule specifically governing the practice of psychology; or

(9) Gross, wilful, or continued overcharging for professional services.

Sec. 53. Section 86, chapter 279, Laws of 1984 and RCW 18.83.135 are each amended 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.

In addition to the authority prescribed under RCW 18.130.050, 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 disciplining 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; and~~
- ~~((14)) (2) 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).~~

Sec. 54. Section 89, chapter 279, Laws of 1984 and RCW 18.83.155 are each amended 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.))~~

Sec. 55. Section 18, chapter 305, Laws of 1955 as amended by section 18, chapter 70, Laws of 1965 and RCW 18.83.180 are each amended to read as follows:

It shall be a gross misdemeanor and unlicensed practice for any person to:

(1) Use in connection with his or her name any designation tending to imply that he or she is a licensed psychologist unless duly licensed under or specifically excluded from the provisions of this chapter;

(2) Practice as a licensed psychologist during the time his or her license issued under the provisions of this chapter is suspended or revoked.

NEW SECTION. Sec. 56. The following acts or parts of acts are each repealed:

(1) Section 13, chapter 305, Laws of 1955, section 12, chapter 70, Laws of 1965, section 84, chapter 279, Laws of 1984 and RCW 18.83.120;

(2) Section 12, chapter 305, Laws of 1955, section 13, chapter 70, Laws of 1965, section 85, chapter 279, Laws of 1984, section 6, chapter 27, Laws of 1986 and RCW 18.83.130;

(3) Section 88, chapter 279, Laws of 1984 and RCW 18.83.145;

(4) Section 90, chapter 279, Laws of 1984 and RCW 18.83.161; and

(5) Section 91, chapter 279, Laws of 1984 and RCW 18.83.165.

PART XXI
REGISTERED NURSES

Sec. 57. Section 135, chapter 259, Laws of 1986 and RCW 18.88.086 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

PART XXII
VETERINARY MEDICINE

Sec. 58. Section 139, chapter 259, Laws of 1986 and RCW 18.92.046 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

NEW SECTION. Sec. 59. A new section is added to chapter 18.92 RCW to read as follows:

It is a violation of RCW 18.130.190 for any person to practice the profession of veterinary medicine, surgery, or dentistry in this state, who has not complied with the provisions of this chapter.

PART XXIII
MESSAGE OPERATORS

Sec. 60. Section 146, chapter 259, Laws of 1986 and RCW 18.108.076 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

PART XXIV
CREDENTIALING

NEW SECTION. Sec. 61. **LEGISLATIVE INTENT.** The legislature takes note of the burgeoning number of bills proposed to regulate new health and health-related professions and occupations. The legislature further recognizes the number of allied health professions seeking independent practice. Potentially at least one hundred forty-five discrete health professions and occupations are recognized nationally, with at least two hundred fifty secondary job classifications. A uniform and streamlined credentialing process needs to be established to permit the department of licensing to administer the health professional regulatory programs in the most cost-effective, accountable, and uniform manner. The public interest will be served

by establishing uniform administrative provisions for the regulated professions under the jurisdiction of the department of licensing regulated after the effective date of this section.

NEW SECTION. Sec. 62. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) To "credential" means to license, certify, or register an applicant.

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

(3) "Director" means the director of licensing or the director's designee.

(4) "Health profession" means a profession providing health services regulated under the laws of this state and under which laws this statute is specifically referenced.

(5) "Credential" means the license, certificate, or registration issued to a person.

NEW SECTION. Sec. 63. REGISTRATION, CERTIFICATION, AND LICENSURE. (1) The three levels of professional credentialing as defined in chapter 18.120 RCW are:

(a) Registration, which is the least restrictive, and requires formal notification of the department of licensing identifying the practitioner, and does not require qualifying examinations;

(b) Certification, which is a voluntary process recognizing an individual who qualifies by examination and meets established educational prerequisites, and which protects the title of practice; and

(c) Licensure, which is the most restrictive and requires qualification by examination and educational prerequisites of a practitioner whose title is protected and whose scope of practice is restricted to only those licensed.

(2) No person may practice or represent oneself as a practitioner of a health profession by use of any title or description of services without being registered to practice by the department of licensing, unless otherwise exempted by this chapter.

(3) No person may represent oneself as certified or use any title or description of services without applying for certification, meeting the required qualifications, and being certified by the department of licensing, unless otherwise exempted by this chapter.

(4) No person may represent oneself as licensed, use any title or description of services, or engage in any practice without applying for licensure, meeting the required qualifications, and being licensed by the department of licensing, unless otherwise exempted by this chapter.

NEW SECTION. Sec. 64. EXEMPTIONS. Nothing in this chapter shall be construed to prohibit or restrict:

(1) The practice by an individual licensed, certified, or registered under the laws of this state and performing services within the authorized scope of practice;

(2) The practice by an individual employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States;

(3) The practice by a person who is a regular student in an educational program approved by the director, and whose performance of services is pursuant to a regular course of instruction or assignments from an instructor and under the general supervision of the instructor.

NEW SECTION. Sec. 65. DIRECTOR'S POWER AND DUTY. In addition to any other authority provided by law, the director has the authority to:

(1) Adopt rules under chapter 34.04 RCW necessary to implement this chapter;

(2) Establish all credentialing, examination, and renewal fees in accordance with RCW 43.24.086;

(3) Establish forms and procedures necessary to administer this chapter;

(4) Register any applicants, and to issue certificates or licenses to applicants who have met the education, training, and examination requirements for licensure or certification and to deny a credential to applicants who do not meet the minimum qualifications, except that proceedings concerning the denial of credentials based upon unprofessional conduct or impairment shall be governed by the Uniform Disciplinary Act, chapter 18.130 RCW;

(5) Hire clerical, administrative, investigative, and other staff as needed to implement this chapter, and hire individuals credentialed under this chapter to serve as examiners for any practical examinations;

(6) Determine minimum education requirements and evaluate and designate those educational programs from which graduation will be accepted as proof of eligibility to take a qualifying examination for applicants for certification or licensure;

(7) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for certification or licensure;

(8) Determine whether alternative methods of training are equivalent to formal education, and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take any qualifying examination;

(9) Determine which states have credentialing requirements equivalent to those of this state, and issue credentials to individuals credentialed in those states without examinations;

(10) Define and approve any experience requirement for credentialing;

- (11) Implement and administer a program for consumer education;
- (12) Adopt rules implementing a continuing competency program;
- (13) Maintain the official department record of all applicants and licensees; and
- (14) Establish by rule the procedures for an appeal of an examination failure.

NEW SECTION. Sec. 66. RECORD OF PROCEEDINGS. The director shall keep an official record of all proceedings. A part of the record shall consist of a register of all applicants for credentialing under this chapter and the results of each application.

NEW SECTION. Sec. 67. ADVISORY COMMITTEES. (1) The director has the authority to appoint advisory committees to further the purposes of this chapter. Each such committee shall be composed of five members, one member initially appointed for a term of one year, two for a term of two years, and two for a term of three years. Subsequent appointments shall be for terms of three years. No person may serve as a member of the committee for more than two consecutive terms. Members of an advisory committee shall be residents of this state. Each committee shall be composed of three individuals registered, certified, or licensed in the category designated, and two members who represent the public at large and are unaffiliated directly or indirectly with the profession being credentialled.

(2) The director may remove any member of the advisory committees for cause as specified by rule. In the case of a vacancy, the director shall appoint a person to serve for the remainder of the unexpired term.

(3) The advisory committees shall each meet at the times and places designated by the director and shall hold meetings during the year as necessary to provide advice to the director. The committee may elect a chair and a vice chair. A majority of the members currently serving shall constitute a quorum.

(4) Each member of an advisory committee shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the committees shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of their committees.

(5) The director, members of advisory committees, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any credentialing or disciplinary proceedings or other official acts performed in the course of their duties.

NEW SECTION. Sec. 68. CREDENTIALING REQUIREMENTS. (1) The director shall issue a license or certificate, as appropriate, to any applicant who demonstrates to the director's satisfaction that the following requirements have been met:

- (a) Graduation from an educational program approved by the director or successful completion of alternate training meeting established criteria;
- (b) Successful completion of an approved examination; and
- (c) Successful completion of any experience requirement established by the director.

(2) The director shall establish by rule what constitutes adequate proof of meeting the criteria.

(3) In addition, applicants shall be subject to the grounds for denial of a license or certificate or issuance of a conditional license or certificate under chapter 18.130 RCW.

(4) The director shall issue a registration to any applicant who completes an application which identifies the name and address of the applicant, the registration being requested, and information required by the director necessary to establish whether there are grounds for denial of a registration or issuance of a conditional registration under chapter 18.130 RCW.

NEW SECTION. Sec. 69. APPROVAL OF EDUCATIONAL PROGRAMS. The director shall establish by rule the standards and procedures for approval of educational programs and alternative training. The director may utilize or contract with individuals or organizations having expertise in the profession or in education to assist in the evaluations. The director shall establish by rule the standards and procedures for revocation of approval of education programs. The standards and procedures set shall apply equally to educational programs and training in the United States and in foreign jurisdictions. The director may establish a fee for educational program evaluations.

NEW SECTION. Sec. 70. EXAMINATIONS. (1) The date and location of examinations shall be established by the director. Applicants who have been found by the director to meet the other requirements for licensure or certification shall be scheduled for the next examination following the filing of the application. The director shall establish by rule the examination application deadline.

(2) The director or the director's designees shall examine each applicant, by means determined most effective, on subjects appropriate to the scope of practice, as applicable. Such examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

(3) The examination papers, all grading of the papers, and the grading of any practical work shall be preserved for a period of not less than one year after the director has made and published the decisions. All examinations shall be conducted under fair and wholly impartial methods.

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the director under RCW 43-.24.086 for each subsequent examination. Upon failing four examinations,

the director may invalidate the original application and require such remedial education before the person may take future examinations.

(5) The director may approve an examination prepared or administered by a private testing agency or association of licensing agencies for use by an applicant in meeting the credentialing requirements.

NEW SECTION. Sec. 71. APPLICATIONS. Applications for credentialing shall be submitted on forms provided by the director. The director may require any information and documentation which reasonably relates to the need to determine whether the applicant meets the criteria for credentialing provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the director under RCW 43.24.086. The fee shall accompany the application.

NEW SECTION. Sec. 72. INITIAL APPLICATIONS. The director shall waive the examination and credential a person authorized to practice within the state of Washington if the director determines that the person meets commonly accepted standards of education and experience for the profession. This section applies only to those individuals who file an application for waiver within one year of the establishment of the authorized practice.

NEW SECTION. Sec. 73. RECIPROCITY. An applicant holding a credential in another state may be credentialed to practice in this state without examination if the director determines that the other state's credentialing standards are substantially equivalent to the standards in this state.

NEW SECTION. Sec. 74. RENEWALS. The director shall establish by rule the procedural requirements and fees for renewal of a credential. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a license or certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the director by taking continuing education courses, or meeting other standards determined by the director.

NEW SECTION. Sec. 75. DISCIPLINE. The uniform disciplinary act, chapter 18.130 RCW, shall govern the issuance and denial of credentials, unauthorized practice, and the discipline of persons credentialed under this chapter. The director shall be the disciplining authority under this chapter.

NEW SECTION. Sec. 76. JURISDICTION. This chapter only applies to a business or profession regulated under the laws of this state if this chapter is specifically referenced in the laws regulating that business or profession.

NEW SECTION. Sec. 77. SECTION CAPTIONS. Section captions as used in this chapter do not constitute any part of the law.

NEW SECTION. Sec. 78. Sections 61 through 77 of this act shall constitute a new chapter in Title 18 RCW.

**PART XXV
MANDATED HEALTH INSURANCE COVERAGE**

Sec. 79. Section 2, chapter 56, Laws of 1984 and RCW 48.42.070 are each amended to read as follows:

Every person or organization which seeks sponsorship of a legislative proposal which would mandate a health coverage or offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a component of individual or group policies, shall submit a report to the legislative committees having jurisdiction, assessing both the social and financial impacts of such coverage, including the efficacy of the treatment or service proposed, according to the guidelines enumerated in RCW 48.42.080. Copies of the report shall be sent to the state health coordinating council 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 to the extent requested by the legislative committees.

NEW SECTION. Sec. 80. 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 13, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor April 22, 1987.

Filed in Office of Secretary of State April 22, 1987.

CHAPTER 151

[House Bill No. 187]

INDUSTRIAL INSURANCE APPEALS BOARD—EVIDENCE PRESENTATION FOR ALLEGATIONS OF FRAUD REVISED

AN ACT Relating to industrial insurance appeals; and amending RCW 51.52.050.

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

Sec. 1. Section 51.52.050, chapter 23, Laws of 1961 as last amended by section 10, chapter 200, Laws of 1986 and RCW 51.52.050 are each amended to read as follows:

Whenever the department has made any order, decision, or award, it shall promptly serve the worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award,